IMMIGRATION LAWS

OF THE

UNITED STATES

EATON McNAIRY CROSSWELL

A Guide to Admission

to the United States

IMMIGRATION LAWS

OF THE

UNITED STATES

By

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This is the fifth number of the LEGAL ALMANAC SERIES which will bring the law on various subjects to you in non-technical language. These books do not take the place of your attorney's advice, but they can introduce you to your legal rights and responsibilities.

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INTRODUCTION

Once again the state of the world has turned the eyes of peoples everywhere upon the United States as a haven of freedom and security. Within its shores the intellectually curious and the seeker of trade have found common profit. All have sought to taste the vitality and abundance of this youthful nation. The lure of America over the years has been such that control of the incoming flow through immigration laws has been necessitated for the sake of the welfare and security of its inhabitants.

The authority of the United States to regulate immigration stems from its inherent power as a sovereign nation to preserve itself and from the constitutional power of Congress to regulate commerce with foreign nations. It is an absolute authority, vested in the political departments of the government, and is not subject to challenge. It may be exercised through treaties made by the President and the Senate or through statutes enacted by Congress. Thus, Congress may admit foreigners under only such terms, reasonable or not, as it may see fit to impose or it may choose to exclude them altogether. Furthermore, the law-making body may designate any agencies it pleases to administer its policies and, so long as they do not overstep the limits of their authority or abuse the discretion reposed in them, their judgment is final.

At present immigration is governed by one comprehensive statute known as the Immigration and Nationality Act, commonly referred to as The McCarran-Walter Act, enacted into law on June 27, 1952 and rendered effective on December 24, 1952. This law was intended to be a revision and codification of the numerous legislative acts and treaties, implemented by executive orders, presidential proclamations and administrative rules and regulations, which preceded it. The Immigration and Nationality Act itself was the result of more than two and one-half years of investigation and study by congressional committees and executive agencies of the entire existing body of immigration and

nationality laws which were in the main superceded by the creation of the new omnibus formula for travel control.

In the beginning of the Republic and for almost a century thereafter, the government did little or nothing to restrict immigration. In fact, early legislation tended to encourage travel by improving transportation conditions on vessels. The first legislation having a disciplinary effect upon immigration sought to prevent the entry of criminals, immoral persons, "coolie" labor, and paupers from the year 1875. In 1882 Chinese were barred from taking up permanent residence in this country, and extensions of similar restrictive law imposed this restraint until 1943. In 1885 the importation of "cheap" labor was halted by an alien contract labor law to alleviate the adverse effect of such competition upon the domestic labor market.

Heavy immigration in the nineteenth century raised sentiment throughout the United States that something must be done to check the flow. Between 1891 and 1910 numerous classes of undesirables were added to the list of excludable immigrants, including polygamists, persons suffering from various mental diseases and disabilities, or afflicted with dangerous or loathesome illnesses, anarchists, saboteurs, persons who believed in or advocated the overthrow by force and violence of the Government of the United States, all governments, or all forms of law, in addition to other categories of mental and moral defectives. Nevertheless, human traffic from overseas continued to expand rapidly.

Heeding public resentment during World War I against free immigration, Congress passed on February 5, 1917 what then became the basic immigration act, codifying all previously enacted excluding laws and defining the classes of excludable aliens. Provision was made for the inspection of immigrants upon arrival, medical examination, and the return of unlawful immigrants. Of particular note were the provisions which, for the first time, barred aliens over sixteen years of age who could not read and declared inadmissible to the United States natives of many Asiatic countries.

Until 1921 the exclusion of foreigners was on a *qualitative* basis—that is, no attempt was made to bar the *number* of persons seeking entry into the United States, but, rather, restrictions were aimed only at immigrants possessing cer-

tain undesirable characteristics. In that year, however, with Europeans straining to leave that war-ravaged continent and Americans faced with problems of unemployment and housing, the first quota law came into being. The number of nationals of any one country entering the United States was limited to three percent of the foreign-born population of that nationality which had resided here in 1910—aggregating a total of 350,000 persons.

After further study and analysis of the effect of the new law, Congress enacted on May 2, 1924 what has been until recently the basic quota law. A system of numerical restriction was devised based upon the "national origins" of the peoples contributing to the population of the United States in 1920 instead of the number of foreign-born residents in the country at any time. The purpose asserted by the proponents of this measure was to arrest the tendency toward a change in the fundamental composition of the American stock.

From time to time Congress has alleviated the drastic reduction effected under the quota system by special legislation, such as that which facilitated the admission of "war brides" and "GI fiancees" between 1945 and 1948 and which has eased the entry of "displaced persons" and refugees since 1948 by removing the restraints and granting preferences to persons not ordinarily so favored in the immigration law itself.

The Immigration and Nationality Act represents no radical departure from the trends which manifested themselves in earlier laws. Basically, the "national origins" quota system is continued in effect, although emphasis is placed on the preference for selected immigrants urgently needed in the United States, provision is made for a more thorough screening of aliens, particularly subversives and security risks, and the grounds for exclusion and deportation are widened. In addition, restraints against immigration based on race and sex are eliminated. Procedural changes are set up in the executive agencies to facilitate enforcement of the law.

The two agencies charged with its administration are the Immigration and Naturalization Service headed by a commissioner under the over-all direction of the Attorney General of the United States and the Bureau of Security and Consular Affairs directed by an administrator under the

general supervision of the Secretary of State. The Service regulates the admission of aliens at ports of entry in the United States while the Bureau administers the issuance of visas through its consular officers abroad. Of course, these agencies have other functions which are not of direct concern here.

The inspection of arriving aliens, other than the physical and mental examination, is conducted by one or more immigration officers, who are authorized by law to board and search any vessel, aircraft, railway car, or vehicle for that purpose. Until inspection is completed, no passenger or crewman may leave the conveyance which brought him nor will he be permitted to land. The examining officer may require any person seeking admission to the United States to state under oath the purposes for which he has come, the length of time he intends to stay, whether or not he intends to remain permanently, and, if an alien, whether he intends to become a citizen. Moreover, the officer may ask any other questions designed to help him determine the nationality of the traveller and, if he is an alien, whether he is excludable. The medical examination is conducted by an officer of the United States Public Health Service.

Every alien, other than a crewman who may be ordered to be detained on board his craft until it departs, who does not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land, must be detained for further hearing by a "special inquiry officer," except that the case of any person suspected of being a security risk or a subversive is referred directly to higher immigration authorities. These officials may refuse such alien admission without divulging the reasons therefor if to do so would be prejudicial to the public interest.

A person detained for further inquiry into his admissibility after primary inspection is notified of this action immediately and in writing by the examining officer. Until he is afforded his hearing, the alien is considered to have been temporarily excluded from the United States and may be confined to an immigration detention station unless paroled or released on bond or other undertaking. At the formal hearing before the special inquiry officer, the applicant for admission may be accompanied by a lawyer, friend, or relative, may offer evidence on his own behalf, and, if the

decision is adverse to him, may appeal for reversal of the order of exclusion to the Board of Immigration Appeals, a panel of officers directly representing the Attorney General. Should he be unsuccessful, the alien must be deported to the country whence he came, in accommodation of the same class in which he arrived, on the vessel or aircraft bringing him. The expense of transporting him back must be borne by the owner(s) of the vessel or aircraft which brought him here.

Every safeguard is provided throughout the hearing for the protection of the rights of the applicant and immigration personnel are generally known to be considerate and courteous in their approach.

The reader is reminded that the foregoing discussion has been limited strictly to the subject to which this book is devoted—namely, the admission of aliens to the United States. Although *deportation* is an appropriate subject in the framework of the immigration laws, that topic is too broad to be considered here and may be treated in another volume. *Naturalization*—the conferring of citizenship—has been excellently treated by Margaret E. Hall in Volume 8 of this series, entitled: HOW TO BECOME A CITIZEN OF THE UNITED STATES (2d ed: 1953; Oceana Publications). The processes of deportation and naturalization are both within the jurisdiction of the Immigration and Naturalization Service.

CHANGES IN THE IMMIGRATION AND NATURALIZATION LAW — 1957

Congress this year made several changes in the law affecting immigrants and persons seeking American citizenship. Although not sweeping in nature, these changes are significant in that they indicate a liberalization of this program.

Separated families may now be reunited. Certain obstacles—moral and criminal grounds—which had prevented their reunion have been removed, in the case of spouses and children of U. S. Citizens and aliens lawfully admitted to this country for permanent residence. Also, aliens related to American citizens or to lawfully admitted aliens suffering from tuberculosis may now be admitted under proper precautions.

Provision for the quick naturalization of adopted orphans of United States citizens employed abroad has been made. Furthermore, adopted orphans may now enter this country on a non-quota basis.

The law also permits the waiver of the fingerprinting requirements by the Attorney-General of the United States where reciprocity exists with the nation from which the alien comes and the requirements have already been waived by the Attorney-General.

The law now permits the granting of permanent residence (asylum) to foreign diplomats (up to 50 a year) who have broken with their governments.

Basically, the quota system remains unchanged. The status of Hungarian refugees is still open and is left for future legislation.

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Chapter I

ADMISSIBLE ALIENS: WHO MAY ENTER THE UNITED STATES

Every person, not a citizen of the United States, who wishes to enter the United States is considered an alien under the immigration laws and is classified as an immigrant or a nonimmigrant. Technically, an immigrant is an alien who enters the United States for either an indefinite or permanent residence, while a nonimmigrant is one who is admitted for a temporary specified period of time.*

It is important that a person interested in coming to the United States for any stay learn the category of immigrant or nonimmigrant to which he properly belongs in order that he may apply for and receive a valid entry permit, referred to in immigration as a visa, from a consular officer. Failure to do so could have a far-reaching effect upon his welfare and the future of his family.

The immigration laws specify that an immigrant or nonimmigrant visa be one that is *properly* issued to an *eligible* immigrant or nonimmigrant. Should an alien succeed in obtaining a travel document to which he is not entitled, whether by deception or mistake, he may nevertheless be barred from entry into the United States upon arrival and inspection by the immigration authorities. And even should he be successful in obtaining admission, honestly or otherwise, such person is subject to deportation at any time thereafter.

This chapter will furnish a summary of the several classes of immigrants and nonimmigrants who are eligible to apply

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*Strictly speaking, it is not necessary that an alien intend to stay in the United States to be considered an immigrant. Mere failure to qualify as a nonimmigrant makes him an immigrant. While an alien who could qualify as a nonimmigrant may be treated as an immigrant, if he prefers, one who is an immigrant cannot be considered a nonimmigrant, whatever his wishes. In short, the law presumes that every alien is an immigrant unless he can establish that he is a nonimmigrant.

for entry permits and eventually for admission into the United States. A more complete description of these groups and the documentary requirements for their admission will be set forth in the chapters to follow.

Nonimmigrants—to be classified a nonimmigrant, an alien must be

—a foreign government official, a member of his staff, or a member of the immediate family of either,
—a visitor for business or pleasure or an "exchange-visitor" sponsored by an institution of learning,
—a person in transit through the United States or on his way to or from the United Nations Headquarters,
—a crewman; that is, either a seaman or airman,
—a person coming to carry on trade between his country and the United States or his spouse or child(ren) accompanying or following to join him.
—a student coming to pursue a full course of study at a qualified institution,
—a foreign government representative to an international organization, a member of his staff, or a member of the immediate family of either,
—a temporary worker (1) of distinguished merit and ability, or (2) coming to perform skilled or unskilled labor, or (3) coming as an industrial trainee, or
—a bona fide representative of a foreign press, radio, film, or other information medium coming here to engage in that vocation, or his spouse or child(ren) accompanying or following to join him.

Immigrants—all other persons who do not qualify as nonimmigrants are deemed to be immigrants. Immigrants are divided into two groups: (1) quota immigrants who are subject to quota limitations, and (2) nonquota immigrants who are not subject to the numerical quota restriction. To understand the difference, an explanation of the quota system is necessary.

The Quota System

The immigration law provides a limit to the number of persons (other than nonimmigrants or nonquota immigrants) of any one nationality who may be admitted to the United States annually. This restriction is based upon the principle that the admissible number of immigrants of a given stock must bear a certain ratio (one-sixth of one percent) to the number of persons of the same stock residing in the United States in the year 1920. For example, if there were 1200 persons of British birth then living in the

United States, according to the federal census, the quota for Great Britain would be two; that is, two immigrant visas would be available to the eligible immigrants allocable to the British quota in any one year.*

Every country and other independent governmental unit is treated as a separate quota area. The actual number of available entry permits or immigrant visas apportioned to each quota area at the present date is listed in Appendix A. The quotas for all countries are proclaimed annually in advance by the President of the United States for the fiscal year, beginning July 1st and ending June 30th. No more than ten percent of the quota for each area may be used in any one month except during the last two months of the fiscal year—in May and June—when the unused balance of the quota may be exhausted.

For the purpose of determining the quota to which a prospective immigrant is chargeable, he is considered to be a national of the country in which he is born. In other words, national origin is established not by citizenship or residence but by birth in a given country or quota area. There are five general exceptions to this rule:

1. An alien child accompanied by one or both of his parents may be charged to the quota of either accompanying parent, if necessary to prevent separation from his family if (a) such parent has received or is qualified to receive an immigrant visa and (b) the quota to which the parent is chargeable has not been exhausted for that year. This exception applies regardless of the place of birth or ancestry of the child or his parent(s).
2. An alien chargeable to a quota different from that of his or her accompanying spouse may be charged to the quota of that spouse if necessary to prevent their separation, provided (a) the spouse has received or is qualified to receive an immigrant visa and (b) the quota to which such spouse is chargeable has not been exhausted for that year. This exception, however, does not apply if such alien is of Asiatic bloodstock and is subject to Exception 5.

**Exception*: A quota immigrant born in a colony or other dependency situated outside the Asia-Pacific triangle—see page 4—is chargeable to the quota of the mother country, unless he has fifty percent or more Asiatic blood. Nevertheless, regardless of the quota for the mother country, no more than 100 immigrant visas annually may be obtained by such immigrants. For example, only 100 British West Indians may procure immigrant visas although the British quota is more than 65,000.

3. An alien born in the United States is considered to have been born in the country of which he is a citizen or subject. If he is not a citizen or subject of any country, then he is chargeable to the quota of the last foreign country in which he resided. This determination is made by the consular officer to whom application for a visa is made. However, this exception does not apply if the immigrant is of Asiatic bloodstock and comes within Exception 5.
Examples: The child of a foreign diplomat or one born on a foreign government or public vessel anchored in the United States is not an American citizen in spite of birth here because he was not subject to the jurisdiction of the United States at the time of birth.

4. An alien born in any quota area in which neither of his parents were born or had their residence at the time of the alien's birth may be charged to the quota of either parent. However, this does not apply to persons of Asiatic bloodstock who come within Exception 5.
Examples: One or both parents could have been visiting the country where the child was born or have been stationed there for business or on other duties upon the orders of an employer or a superior authority.

5. *Persons of Asiatic origin or bloodstock*—a special quota of 100 is established for a geographical area comprising a number of Asiatic countries, territories, and islands in Pacific waters, encompassed within a triangular line drawn upon the world map. In addition, a maximum quota of 100 is allotted to each independent country, self-governing dominion and trust territory within this triangle, known as the ASIA-PACIFIC TRIANGLE. Colonies and other dependent areas within the Triangle have no separate quota provided for them. *Regardless of his place of birth, a person having fifty percent or more Asiatic blood is chargeable to the quota of the Asia-Pacific Triangle or to the quota of one of the areas within this Triangle.**

This exception does not apply, however, to

—a nonquota immigrant other than an immigrant or his spouse claiming nonquota status because of birth in certain countries, enumerated below, of the Western Hemisphere.

—a child of an immigrant who is born in Canada, Mexico, Cuba, Haiti, Dominican Republic, Canal Zone, or an independent country of Central or South America.

In addition, a special exemption and quota are provided for Chinese persons and for China, as follows:

1. A Chinese person is chargeable to a special quota for Chinese persons of 105 annually unless he comes within the proviso of nonquota immigrants mentioned above.

2. An alien born in China but not of Chinese blood; that is, having less than fifty percent Chinese blood, is chargeable to the quota for China, regardless of his place of birth, unless he falls within one of the first four general exceptions listed here or within the proviso for nonquota immigrants mentioned above.

*For countries in the Triangle see Appendix A.

Nonquota immigrants—the following categories of persons are not subject to the numerical restrictions against (or the requirements for admission of) quota immigrants described above:

A. The spouse or child of a citizen of the United States.
B. A resident alien returning from a temporary visit abroad.
C. A person born in one of the independent countries of Central or South America, Canada, Mexico, Haiti, Cuba, Dominican Republic, or the Canal Zone, and his spouse or child(ren) accompanying or following to join him.
D. A former citizen of the United States who lost her citizenship by marriage.
E. A former citizen of the United States who lost his citizenship by serving in the armed forces of a foreign country.
F. A former citizen of the United States who lost citizenship through the foreign naturalization of his or her parent(s).
G. A minister of religion who seeks to carry on his vocation in the United States and whose services are needed by a religious organization, and his spouse or child(ren) accompanying or following to join him.
H. An employee, or former employee, of the United States Government abroad who has served faithfully for at least fifteen years, and his spouse and child(ren) accompanying him.

Any number of nonquota immigrants, regardless of ancestry, may be admitted to the United States throughout the year, with the exception that a native of one of the Western Hemisphere countries mentioned in Group C and his spouse are not usually exempt from the quota restrictions if either of them possess fifty percent or more of Asiatic blood. Their child, however, is not so disqualified notwithstanding his racial ties.

Immigrants who cannot fit into one of the categories listed above must be treated as quota immigrants unless they can qualify for quota exemption by reason of membership in a class originated by emergency or special statute, such as that which has created the "displaced person" or which has permitted from time to time exemptions from the usual quota limitations. (See Appendix E).

Preference quota immigrants—within the general class of quota immigrants, the immigration law accords priorities to certain groups of selected immigrants. Preferences in the disposition of the quota are granted in the following order:

FIRST PREFERENCE: An immigrant whose services:

—*are urgently needed in the United States* because of high education, technical training, specialized experience, or exceptional ability, and

—*will substantially benefit the national economy, cultural interests, or welfare of the United States* and his spouse and child(ren) accompanying him.

This group is entitled to use up to the first fifty percent of the annual quota available to the country to which each alien is chargeable in addition to any portion of the quota not used by the 2d and 3d preference groups.

SECOND PREFERENCE: *The parent(s) of a citizen of the United States at least twenty-one years of age.*

The term "parent" does not include—(a) an adoptive parent, or (b) a stepparent unless the marriage creating the status of stepparent took place before the stepchild—the American citizen—reached the age of 18 years.

The next thirty percent of the quota for each country plus any part of the quota not used by the 1st and 3d preference groups are available to this group.

THIRD PREFERENCE: *The spouse or unmarried child under 21 years of age of an alien lawfully admitted to the United States for permanent residence.*

The last twenty percent of the quota for each country is allocated to this group in addition to any portion of the quota not required by the first two groups.

FOURTH PREFERENCE: *The brother or sister, son or daughter of a citizen of the United States.*

Ordinarily, the term "child" refers to an unmarried person under 21 years of age. The child of a citizen, it has been noted, may enter the United States as a nonquota immigrant. A "son" or "daughter" is not limited to this definition but may be married or over 21 years of age or both. Such person would come within this category.

This group is allotted a preference in the use of any immigrant visas not used by the first three groups to the extent of the first 25 percent of the unused balance. Actually, it will be noted, this "preference" is not an absolute one, as are the priorities in the first three classes, for the preference is contingent upon the extent to which that portion of the quota available to the others is not exhausted.

These preferences in the issuance of entry permits or visas are obtained by means of a petition filed on behalf of the prospective immigrant with the Immigration and Naturalization Service in the United States by a close relative or other qualified person or organization desiring the immigrant's admission into this country. No consular officer may grant an application for a preference visa unless he is first authorized to do by the Attorney General of the United States or the Immigration and Naturalization Service

acting on his behalf. The requirements and procedure for securing a priority in the order of issuance of immigrant visas are more particularly explained in Chapter III.

It is emphasized that until and unless an immigrant establishes his right to a preference quota immigrant classification, the law will regard him as a member of the "residue" class of nonpreference quota immigrant.

Nonpreference quota immigrants—are those persons who are eligible to receive any immigrant visas remaining unused after the selected groups mentioned above have satisfied their demands from the available supply of entry permits under the quota. Should the quota be wholly exhausted by the issuance of visas to aliens having prior claims, the nonpreference quota immigrant must wait his turn upon a waiting list established in the consular office until his "number" has been reached.

It is possible, for this reason, that an immigrant chargeable to a heavily oversubscribed quota may have to wait many months, and sometimes years, before an immigrant visa may be requisitioned for his use in coming to the United States. It behooves this person to determine whether he can find places for himself and his family within the categories reserved for immigrants exempt from or given priority within the quota.

Chapter II

NONIMMIGRANTS: DOCUMENTARY AND OTHER REQUIREMENTS FOR ADMISSION

A nonimmigrant generally is required to have

—*a passport valid for at least six months beyond the initial period for which he has been admitted to the United States permitting his return to the country from which he came or authorizing him to proceed to some other country.*

Exception: foreign government officials and representatives to international organizations need have only an unexpired passport valid on the date of entry into the United States.

—*a nonimmigrant visa, sometimes referred to as a passport visa.*

Exception: *nonresident alien border crossing cards* issued by consular officials or immigration authorities at ports of entry in the United States or at immigration stations in Canada may be obtained by certain aliens residing in Canada or Mexico for visits to this country in place of visas for periods up to 29 days.

Such cards are available when it is not practicable to apply for an entry permit each time admission to the United States is required. Application is made in triplicate on Form I-190 together with four identical photographs (except for children under fourteen). The border-crossing, or identification card on Form I-186, when issued, is valid for the period specified on the card. There is no fee involved.

A "passport" refers to any travel document issued by an authorized official of a foreign government to which the bearer owes allegiance, showing the bearer's origin, identity, and nationality, if any, and valid for entry into a foreign country. Sometimes such document may consist of two or more documents which fulfill the requirements for a "passport" although they do not carry that title. Written permission to enter a foreign country is considered as meeting one of the requirements of a passport, provided it is obviously good for that purpose and no conditions are attached.

Certain classes of nonimmigrants are not required to have passports and visas for admission to the United States. They include:

Canadian and British citizens, residents of Canada, coming to the United States temporarily from foreign contiguous territory or adjacent islands

or from a round-trip cruise (on the same vessel) in the Western Hemisphere.

Aliens travelling in transit through the United States without stopover (a) from one part of Canada or Mexico or (b) from one foreign place to another other than Canada or Mexico, on a transportation line approved by the United States for this purpose. If in group (b), such persons must have travel documents valid for entry into a foreign country for a period not less than 60 days after the date of travel through the United States. This exemption is subject to the condition that while the traveller is not aboard an aircraft in flight through the United States, he must be in custody of a U. S. officer, or if being transported by railroad, in suitable custody provided by the immigration authorities. Aliens desiring to make a stopover of not more than 24 hours at Hawaii, Puerto Rico, or the Virgin Islands are also exempt from the documentary requirements but are subject to the latter condition of custody.

Mexican nationals who are (a) government officials or members of their families; (b) travellers in transit from one place in Mexico to another; (c) officers or personnel of the International Boundary and Water Commission, members of fire-fighting units, and persons employed on certain international projects, entering the United States on official business.

Alien members of the Armed Forces of the United States either in uniform or bearing identifying documents as such, applying for entry into the United States under official orders, if not previously admitted lawfully for permanent residence.

American Indians, having at least fifty percent American Indian blood and born in Canada, seeking to pass over the borders of the United States.

Nonimmigrants required to have passports but not visas or border-crossing identification cards are

Canadian citizens returning to their residence in Canada through the United States from other than foreign contiguous territory or adjacent islands or from a round-trip cruise (on the same vessel) outside the Western Hemisphere.

Cuban immigration officers travelling between Havana, Cuba and Miami, Florida on official duty.

British, French, and Dutch subjects residing in their respective provinces in the West Indies and applying for admission to Puerto Rico or the Virgin Islands.

Nationals of foreign contiguous territory or adjacent islands entering the United States as seasonal or temporary workers, by international arrangement.

British residents of the Cayman Islands if in possession of documents showing their criminal record and political associations or affiliations, if any.

Either or both of the documentary requirements may be waived for nonimmigrants by the immigration authorities

and the Department of State, acting jointly, under the immigration law

—on the basis of unforeseen emergency in individual cases;
—on the basis of reciprocity as to nationals, or residents having a common nationality with such nationals, of foreign contiguous territory or of adjacent islands; and
—in the case of aliens proceeding in immediate and continuous transit through the United States on transportation lines under contract with this country to guarantee the passage of such aliens in transit.

The exemptions enumerated above are provided by the regulations of the respective government departments in accordance with their authority. The reader is cautioned that such waivers may be modified or eliminated from time to time and new or other classes of nonimmigrants added.

Procedure for obtaining a nonimmigrant visa—

Application is made on Form FS-257 in quadruplicate at the consular office in the district where the prospective nonimmigrant resides. However, where hardship might otherwise result, a consul may accept an application from one who is physically present in his district though not a resident there. An applicant is required to appear personally before a consular officer to execute Form FS-257 except in the case of a foreign government official or a child under ten years of age.

A child between the ages of ten and fourteen years must be accompanied by a parent, guardian, lawful custodian or person having a legitimate interest in him to fill out and swear to the application on behalf of the child.

Except for certain government officials and seamen or airmen whose names are manifested upon visaed crew lists, a separate application must be made for each visa desired.

Statements in the application—every nonimmigrant must show his full and true name, the date and place of birth, his nationality, race and origin; the purpose and length of his intended stay in the United States; personal description (including height, complexion, color of hair and eyes, and any marks of identification); his marital status, and any other information required for identification or to assist the consular officer in determining whether the applicant is admissible to the United States under the immigration laws.

Photographs—three identical photographs must be submitted with the application except for a child under ten years of age if he does not have his own passport. The pictures must be two by two inches in size, unmounted, without head covering, have a light background, and clearly show a full, front view of the facial features. They must be signed with the full name in such manner as not to obscure the features. (This requirement may be waived for government officials, representatives to international organizations, their staffs, and their families.)

Supporting documents—certified copies of any document or record required by the consular officer to help him pass upon the applicant's eligibility for a visa must be furnished in duplicate. If the alien cannot obtain the document(s) called for without undue hardship, other than that caused by normal delay or inconvenience, he may be permitted to obtain the evidence from other sources. The records usually requested are:

—*medical certificate* from a reputable and competent physician selected from a panel of physicians approved by the consular officer or from a doctor affiliated with the United States Public Health Service

—*police certificate* setting forth what the records of the local authorities show concerning the applicant's behavior. (This does not apply to foreign government officials or official representatives to international organizations except on the basis of reciprocity.)

Registration and fingerprinting—every applicant for a visa must be registered as an alien and be fingerprinted except in the case of

—official representatives of foreign governments, their staffs and families and other persons qualified to receive diplomatic visas.
—children under fourteen years of age.

Usually the fingerprints are taken when the informal request for the visa is made. An alien must furnish and swear to certain information on an alien registration form at the same time that he submits the application for his visa.

Issuance of the nonimmigrant visa—approval of the application is indicated by a stamp placed in the nonimmigrant's passport and signed by the consular officer, as in this specimen:

TITLE OF OFFICE
LOCATION
NONIMMIGRANT VISA

Nonimmigrant classification ..... pursuant to
(State Dept. symbol)

22 CFR 41.5 Immigration and Nationality Act; Application No. V– .....
(Number of application and any other numbers inserted here)

issued on ..... valid through .....
(date) (expiration date covering period of stay)

for ..... applications for admission
(two, three, etc. or "unlimited")

at United States ports of entry.

(Seal)

(Cancelled fee stamp)

.....
(Signature of Consul)

Exception: The visa stamp is impressed on the reverse side of the original copy of the application (Form FS257a) instead of on the passport of an alien whose government is not legally recognized by the United States or in the case of an alien who is exempt from the passport requirement.

The prospective traveller then receives the original and two copies of his application with his visaed passport, unless he is a crewman whose name appears on an approved crew list—see page 27. The consular official retains one copy of the application with one set of any supporting documents. If a visa is refused, he may return the original records and application but he will keep the duplicates for at least one year.

Fees—the cost of a visa varies according to the fees charged to an American national in the country of which the applicant is a national. In short, fees are generally determined on a reciprocal basis except for foreign government officials travelling as nonimmigrants or under diplomatic visas or in transit to and from United Nations Headquarters.

Ordinarily, fees are not refunded whether or not the

application for a visa is granted unless the Department of State specifically permits a refund.

Period of validity of a nonimmigrant visa—ordinarily every visa is valid for use in applying for admission to the United States from the date of its issuance for a period of twelve months. However, an applicant whose own government issues entry permits usable up to twenty-four months or does not require any entry documents of American nationals may obtain a visa valid up to two years.

The bearer of a nonimmigrant visa may make as many applications for admission to the United States as he wishes on condition that

—his visa continues to be valid at the time he seeks entry into the United States. It should be remembered that the validity of a visa refers only to the period during which it may be used for applying for admission to the United States and not to the length of stay in this country.

—his passport continues to be valid for a six-month period (except for government officials) beyond the period of stay permitted by the immigration officers at the port of entry. If the passport expires, the visa becomes invalid. Too, while a passport may be renewed, a visa cannot be transferred from one passport to another.

However, the period during which the visa may be used or the number of applications for admission to the United States may be restricted on the basis of reciprocal treatment accorded by the nonimmigrant's government, or in consideration of his purpose in travelling to or through the United States, or for other valid reasons. For example, a person travelling in transit to and from the United Nations Headquarters, who would not be otherwise admissible for security reasons except by special permission, may use his visa for only one admission during a restricted period.

A nonimmigrant visa may be revalidated or extended if similar treatment is provided by the alien's government to nationals of the United States on condition that

—his visa was used by the alien for admission to the United States or, if not used, he still has his three copies of Form FS257 issued to him;

—application for revalidation is made at the consular office which issued the original visa or permission is given by that office to another consular office to revalidate;

—the visa is about to expire or has expired less than three months before application for extension is made; and

—the consular officer is satisfied the alien has maintained a bona fide nonimmigrant status and is otherwise eligible to receive a visa as a nonimmigrant.

Formal application to revalidate the visa is not required and personal application before the consular officer may be excused if he is satisfied the alien is physically present in the district. The visa may be revalidated any number of times during the period that the applicant's passport is valid. A new visa stamp is impressed into the passport if revalidation is approved. The fee is the same as that charged for the original visa. Registration and fingerprinting need not be repeated.

Refusal of visa—no person will be issued a nonimmigrant visa who does not first satisfy the consular officer that (a) he is actually not an immigrant; that is, that he does not really possess the intention of coming to the United States for permanent residence or for a longer period than permitted, and (b) he will not be barred from admission to the United States upon arrival for any of the reasons described in Chapter IV applicable to nonimmigrants, such as an immoral person, a criminal, or a subversive. (This does not affect a foreign government official or member of his immediate family, unless the President of the United States directs that he be barred anyway, or a foreign government official in transit to and from United Nations Headquarters, unless he is excludable from the United States for reasons of security.

Exceptions: Regardless of the grounds, specified in Chapter IV, upon which incoming aliens may be refused admission to the United States, no nonimmigrant will be refused a visa or denied entry into this country solely for the reason that he is

—unable to read and understand any language,

—a polygamist or a person who advocates the practice of polygamy,

—a person afflicted with a physical defect or disease, other than tuberculosis, leprosy, or other contagious and dangerous disease, affecting his ability to earn a living, or who, in the opinion of the consular or immigration authorities, might become a public charge for any other reason, *provided* that the nonimmigrant posts a bond, cash, or other undertaking that he will not become a public charge, with the consent of the immigration authorities, or

—one who seeks admission from foreign contiguous territory (Mexico or Canada) or adjacent islands, without having resided there previously for at least two years, and who is coming upon a transportation line

which has not complied with certain requirements placed upon it by the immigration laws.

No alien will be given one kind of nonimmigrant classification if the facts in his case clearly bring him primarily within a different category—for example, a visitor if he is in transit—except in the case of certain foreign government officials who have been previously admitted to the United States and who, after a temporary absence, seek to return in some other capacity.

Revocation of visa—an entry permit may be revoked by a consular officer if he

—learns that the permit was procured by fraud, deceit, or other unlawful means;

—receives reliable information that the applicant was ineligible to receive a visa when it was issued;

—finds that the alien has become ineligible for the visa even after it has been issued.

In such cases the consular officer may invalidate the document as of the date it was issued. If practicable, the alien will be notified of the proposed revocation and will be given an opportunity to show cause why such action should not be taken. At that time he must present his three copies of Form FS 257 and the passport or travel document containing the visa stamp. If the visa is revoked, the visa stamp is cancelled on its face. If it is not surrendered to the consular officer, however, the transportation line which the traveller intended to use in coming to the United States will be notified of the revocation. In any event, the failure of the applicant to submit his documents to the consular officer does not prevent or affect the invalidation of the visa.

Conditions of admission and stay—the longest period for which a nonimmigrant may be admitted initially to the United States depends upon what the admitting immigration officer considers necessary to accomplish the intended purpose of the alien's temporary stay. The maximum length of stay for certain classes of nonimmigrants is specified by immigration regulations and will be discussed later in this chapter.

Any nonimmigrant allowed to enter the United States will be permitted to remain in this country only upon the following conditions:

1. That while in the United States he will maintain the particular nonimmigrant status under which he was admitted unless special permission is obtained to change his classification.
2. That he will leave the United States when the period of his stay expires unless an extension is granted.
3. That while in the United States he will not engage in any activity or employment or business not consistent with or necessary to his status as a nonimmigrant without first obtaining permission from the Immigration and Naturalization Service.
4. That he will not remain in the United States more than six months before the validity of his passport expires. If not required to have a passport, that he will depart not later than six months before he will be eligible for readmission to his own or some other country.
5. That he will satisfy all the conditions imposed by the admitting immigration officer upon his entry into the United States to insure his departure on time.
6. That he will send a written notice of his address each year to the national headquarters of the Immigration and Naturalization Service at Washington, D.C. by the thirty-first day of January while he is in the United States; that he will also advise that department in writing of every change of address within ten days; and that, whether or not he moves, he will file a written notice of his address every three months on a printed postcard obtainable at any immigration office or postoffice.
7. That at the time of his departure from the United States his temporary entry permit on Form 257a or I-94C will be surrendered to a representative of the steamship or airline if he leaves by seaport or airport, to a Canadian immigration officer if he leaves across the Canadian border, or to a U.S. immigration officer if he leaves by way of the Mexican border. However, the permit may be returned to the traveller if the passport visa is valid for use in making additional entries or reentries into the United States.

Bonds—subject to specific regulations mentioned below or to orders of the Immigration and Naturalization Service, any nonimmigrant may be required to post a bond of not less than $500 to guarantee his departure from the United States in accordance with the terms of his admission. When temporary admission under bond is authorized, the bond, cash or other undertaking must be posted with the immigration port authorities. Consular officers are not permitted to accept bonds assuring departure from the United States or maintenance of the terms of stay.

Extension of stay—a nonimmigrant, other than one admitted in transit, may obtain one or more extensions of the period for which he has been admitted *provided*:

—his allowable stay has not expired;
—he satisfies the immigration authorities that he has complied with the conditions of his pending stay and will continue to do so;
—he furnishes a bond if the extension granted permits him to remain in the United States for over one year. Special permission might be obtained in exceptional circumstances waiving the bond. However, if the extension permits the applicant to stay for not longer than one year from the date of his first entry, the requirement of a bond is discretionary with the immigration bureau.

If the initial period of admission is for twenty-nine days or less, as in the case of a transit alien, an extension will be granted only in emergent or extraordinary situations. No extension will be granted to a crewman to permit him to remain in this country longer than twenty-nine days after the date of his first landing.

How to apply for extension of stay—as soon as a nonimmigrant becomes aware that he will not be able to complete the purpose of his stay within the period authorized, but not less than fifteen nor more than thirty days before the end of such period, he must apply at the nearest office of the Immigration and Naturalization Service for an extension of stay on Form I-539. Special permission may be obtained to file this application at an earlier date.

The application must be accompanied by (1) a passport valid for six months beyond the period for which the application is being made; (2) the entry permit—visa form FS 275a or immigration form I-94C issued at the time of entry or on the granting of an earlier extension; and (3) a fee of ten dollars, payable by postal, express, or bank money order to the Treasurer of the United States. The fee must be paid by all nonimmigrants, including "exchange" visitors, except students and employees of foreign government officials and international organization personnel. Additional documents or statements required of special classes of nonimmigrants are specified below in the description of each of these groups.

A separate application must be executed for each person making application for an extension. The form calls for a complete description of the applicant, including an explanation of the conditions under which he was permitted to enter and the manner in which he has been complying with them. The applicant must particularly state in detail the

reason for his inability to leave the United States on the date originally fixed or previously extended.

The local immigration office will make the necessary investigation and thereafter render a decision. The application may be granted upon such terms, including the furnishing of a bond, as the immigration authorities deem proper. If the application is denied, there is no appeal. However, the Assistant Commissioner of Immigration in the Inspections and Examinations Division of the Central Office of this agency at Washington, D.C. may order such application submitted for his own scrutiny and decision. His determination is noted on the applicant's entry permit. If denied a further stay, he must leave the United States within the period specified by the immigration authorities.

Temporary admission of excludable aliens—if a prospective nonimmigrant believes that he is—or is known by a consular officer to be—ineligible to receive a visa and excludable from admission to the United States for any of the reasons described in Chapter IV, other than for reasons of security, he may make application for advance permission of the Immigration and Naturalization Service to enter the United States, in spite of his inadmissibility.

Ordinarily this application is made on Form I-192 and may be executed under oath before the consular officer to whom application for a visa is made. It may also be sworn to before any person authorized to administer oaths. If Form I-192 is not readily available and the case is one of unforeseen emergency, the application may be made on any paper so long as it is in writing and contains all the information required by the form. Whenever it is impracticable for the nonimmigrant to execute the application, it may be executed by his parent, guardian, attorney or representative.

The application made under these circumstances must be submitted with a fee of $25 to the Assistant Commissioner, Inspections and Examinations Division, of the Immigration and Naturalization Service at Washington, D.C. If this official denies the application, the applicant will be advised of the reasons for the denial and of his right to appeal to the Board of Immigration Appeals at Washington, D.C. within ten days from the date the applicant is notified of the decision of the Assistant Commissioner. If the applica-

tion is granted, either initially or on appeal, any terms and conditions may be attached to the permit, including the furnishing of a bond or a bond in a larger sum than ordinarily required.

The decision of the immigration authorities may be made known directly to the applicant or to the consular officer handling the visa application, unless the applicant has already proceeded to the United States. In that event, he will be advised at the port of entry.

If the alien has not applied previously for the exercise of this discretion, he may do so at the time he arrives at a port of entry in the United States *provided* he was not aware of the ground of his inadmissibility before he left for this country and such ground could not have been learned by using reasonable diligence and *provided*, further, that he is in possession of the appropriate documents or has been granted a waiver of such documents under the conditions described on page 10.

(Application for waiver of documents is made on Form I-193 upon payment of a $10 fee plus costs of communication between the port of entry and the Central Office of the Immigration and Naturalization Service).

Application for permission to enter the United States temporarily at the time of arrival may be made orally or in writing. If the ground for inadmissibility, which the applicant seeks to be excused, is based upon the commission of a criminal offense, conviction for violation of laws concerning narcotics, or possession or advocacy of or affiliation with an organization teaching or advocating subversive ideas—see page 71—the nonimmigrant will be held for further examination and hearing before a special inquiry officer at the port of entry and the application for permission to enter may be made to him.

If the ground for inadmissibility is one other than those mentioned above, the immigration officer before whom the alien first appears for inspection upon arrival will turn the application for admission over to the local immigration office for decision. If the decision is adverse, the matter of the applicant's eligibility for admission will be taken up before a special inquiry officer to whom the application may again be made. Should he decide against the applicant, an appeal made be taken to the Board of Immigration Appeals

in the same manner described above. Should the application for discretionary relief be granted either by the local immigration office or by the special inquiry officer, it may be under such terms and conditions, including the exaction of a bond, as the authorities deem appropriate.

Aliens previously excluded, deported, or removed, or who have departed at government expense—a nonimmigrant who has been the subject of a previous immigration proceeding may apply for admission to the United States by submitting an application to the immigration authorities on Form I-212. This should be done through the consular officer so that advance permission from the immigration bureau will be communicated to him without delaying the issuance of the visa. Failure to make application until the alien arrives at a port of entry may result in considerable hardship and expense to him, particularly should his application be refused.

In stating his reasons for seeking to enter the United States, the applicant must include a statement of facts showing that

—unusual hardship would result to persons lawfully in the United States if the application should be denied,
—there is need for his services in the United States,
—he is a bona fide crewman who has no means of earning his livelihood other than following his calling, which requires him to come to the United States, or that
—he must enter the United States frequently over the international land border to buy the necessities of life or in connection with a business in which he is engaged, or for some other urgent reason.

When completely filled out, the form should be mailed to the district director of the local immigration office in which the deportation or removal proceedings were held, together with a remittance of $5. Should the application be denied, an appeal may be taken within ten days of the notice of the decision to the Assistant Commissioner, Inspections and Examinations Division, of the Central Office, Immigration and Naturalization Service at Washington, D.C.

Parole of nonimmigrants into the United States—for urgent reasons or for reasons considered strictly in the public interest, an alien applying for admission into the United States and found excludable and not entitled to discretion-

ary permission to enter this country, may still be allowed into the United States under parole upon any conditions, including the furnishing of a bond, considered appropriate by the immigration authorities. This situation may occur, for example, when an alien is in need of immediate medical attention or is required as a witness in a hearing before a court of law.

Parole under these conditions is not regarded as an admission into the United States and when it is determined that the purpose of the parole has been served, the alien will be treated in the same manner thereafter as any other applicant for admission into the United States.

THE SPECIAL CLASSES OF NONIMMIGRANTS

Every alien claiming nonimmigrant status must establish his qualifications for the particular nonimmigrant category in which he claims membership to the satisfaction of both the consular officer when applying for a visa and of the immigration officer upon arrival at a port of entry in the United States. The classifications available to a person seeking nonimmigrant designation are as follows:

*A. Officials of foreign governments**

This group includes accredited officials or employees of a foreign government recognized de jure (by law) by the Government of the United States and acceptable to the President or Secretary of State.** It refers specifically to the following persons:

—ambassadors, public ministers or career diplomatic or consular officers and members of their immediate families

—other foreign government officials and employees and members of their immediate families, provided nationals of the United States of the same rank are equally acceptable to the foreign government(s) of such aliens

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*Special diplomatic visas are available to specified foreign government officials through diplomatic officers or authorized consular officers, but in most respects the requirements are the same as described here.

**This class does *not* include officials of foreign governments acting as representatives to international organizations (United Nations, etc.). Such persons are separately grouped and will be treated later.

—attendants, servants, personal employees of the persons mentioned above and their immediate families, also on the basis of reciprocity.

Definitions:

An "accredited official" refers to an alien holding an official position, other than honorary, who possesses a travel document showing that he is coming to or through the United States to transact official business for his government and that he is a national of the government he serves. If he is not such a national, he may be classifiable as a *temporary visitor* or *alien in transit,* as described below.

"Immediate family" means close relatives who are members of the immediate family by reason of blood, marriage, or adoption and who will reside regularly in the household of the person from whom they derive their status.

"Attendants" are aliens who are paid from the public funds of the foreign government employing them and to which they owe allegiance and who are accompanying, preceding, or following to join the official or employee to whom they owe a duty or service, regardless of its nature. It also includes an attendant who is a member of the armed forces of the foreign government to whom both master and attendant owe allegiance.

"Servants" and "personal employees" include aliens who are employed in a domestic or personal capacity by a foreign government official or employee, who are paid from the private funds of such official or employee, and who seek to enter the United States solely for the purpose of serving their employer.

Generally, no alien may be accorded the privileges of a nonimmigrant in the foreign official class if the facts in his case do not clearly bring him within this group. Thus, an official of a foreign government not legally recognized by the United States may not be classified a nonimmigrant official. If otherwise qualified, however, he may be classified as a temporary visitor, transit alien, or within any one of the other nonimmigrant categories mentioned below.

Other examples:

—An official on *personal* business must apply for a visa as a temporary visitor.

—An alien regularly and professionally employed as a courier by the government to which he owes allegiance or an official proceeding to the United States in this capacity is eligible to a visa in this class. But if he holds no official position in his government or is not one of its nationals, he must apply for a visitor visa.

However, an alien who seeks to enter the United States as a foreign government representative to an international organization and who, at the same time, is proceeding to the

United States on official business as a foreign government official may be issued a visa as a member of the foreign official class, if otherwise qualified.

Persons claiming eligibility to such classification may be required by the consular officer to present evidence of their status as well as the manner and destination of their travel to, or through, the United States.

Conditions of admission and stay—the importance of possessing a nonimmigrant visa in the "official" class is that a properly issued visa entitles the bearer to admission to the United States, the visa being *conclusive* evidence of his proper classification, unless, in exceptional circumstances, the immigration officer is directed otherwise by higher immigration authorities after consultation with the Department of State. In that event, the foreign official may be held for further inquiry. Ordinarily, however, persons in this category are not excludable for any of the usual reasons described in Chapter IV if they are acceptable to the President and Secretary of State.

A foreign government official or employee may be admitted for an indefinite period but not longer than for such time as the State Department continues to recognize him as a member of the "official" class. Attendants, servants, or personal employees (and members of their immediate families) of such officials may be admitted initially for not more than one year. While the official and his family are not required to post any undertaking, their attendants, etc. may be called upon, as one of the conditions of their entry, to post bond or other assurance of their departure upon the expiration of their stay or maintenance of status.

If the official or employee, designated in the first two subdivisions above, becomes ineligible to remain in the United States in his official status, every alien member of his family, attendant, servant, and personal employees, including the members of their respective families, are also regarded as having failed to maintain their status.

Application for extension of stay—by a servant, etc., may be made on Form I-539 filed with the nearest immigration office and must be accompanied by a written statement from the employing foreign government official describing the current and intended employment of the applicant.

B. *Temporary visitors*

Any person who seeks a visitor's visa must specifically establish that

—he has a residence in a foreign country which he has no intention of abandoning;

—he is not classifiable as an alien coming to study except under the "exchange visitor program"—see below—or coming to perform skilled or unskilled labor or coming as a foreign press, radio, film or other information media representative;

—he is proceeding to the United States temporarily only for business or pleasure;

—he intends in good faith, and will be able, to depart from the United States at the expiration of his stay;

—he has a valid foreign visa or other form of permit to enter some foreign country when his stay here is over;

—he has made adequate financial arrangements to enable him to carry out the purpose of his sojourn in the United States; and that

—he will not be barred from entry by the immigration port authorities for any of the reasons described in Chapter IV.

Explanation:

"Business" refers to legitimate activities of a commercial or professional character. It does not include purely local employment or labor for hire. An alien seeking to enter this country for employment or labor by contract or other prearrangement must qualify for a "temporary worker's" visa—see page 38. However, an alien of distinguished merit and ability desiring to enter the United States temporarily with the idea of performing temporary services requiring such merit and ability without any prearrangement may be classified as a nonimmigrant visitor for pleasure.

"Pleasure" refers to the purpose of an alien who desires to enter the United States temporarily as a tourist or for some other legitimate purpose, including amusement, education (other than some activity which would make him classifiable as a student or teacher unless this brings him within the "exchange visitor" program described below), health, rest, or visits with relatives or friends. No alien seeking admission as a student or for prearranged employment may be considered a temporary visitor for pleasure or business except by special permission of the consular and immigration authorities.

Note: The personal servant or personal employee, including a chauffeur, valet, lady's maid, nursemaid and a private or social secretary, but not a domestic or household servant, such as a butler, cook, general maid, charwoman, or gardener, may, if otherwise qualified, be regarded as a visitor for business, provided

—he or she is accompanying his or her employer who is himself entitled to classification as a visitor, or

—he or she is accompanying a U.S. citizen employer who has a residence

or is stationed abroad and who is planning to visit the United States temporarily for business or pleasure.

However, the consular officer must be satisfied that such accompanying alien is a bona fide personal servant and that he or she will be able and willing to leave the United States not later than his or her employer will leave.

Exchange-visitor program—an alien who has been selected by a sponsor—such as an educational institution—to participate in an 'exchange-visitor program" as created by Congressional enactment (Section 201 of the United States Information and Educational Exchange Act of 1948, as amended) may obtain a nonimmigrant temporary visitor's visa if his purpose in desiring to come to the United States is

—to study or perform research at an established institution of learning

—to obtain practical training in public administration, industry, medicine, agriculture, or some other specialized field of knowledge or skill

—to teach in established primary or secondary schools or schools offering specialized instruction at that level

—to deliver lectures or give special instruction as a guest instructor

—to do research, consult, or share his knowledge or skill as a leader in a field of specialized knowledge or skill

—to teach or perform advanced research or both in an established institution of higher learning.

Procedure for procuring an alien's admission as an "exchange visitor."

A sponsoring institution, concern, or body must submit an "Exchange Visitor Program Application" on Form DSP-37 to the Secretary of State at Washington, D.C. The sponsor may be required to furnish evidence in support of its claim to eligibility in this program, as, for example, an established institution of learning.

If acceptable, the "exchange-visitor program" designed by the sponsor will be approved and the sponsor, as well as all consular officers and Immigration and Naturalization Service authorities, will be notified.

Each exchange visitor selected by the sponsor to take part in the program is advised to apply for a passport visa to a consular officer. Both the visa and the sponsor's notification must be presented to the immigration officers at the port of entry in the United States.

It is the obligation of a sponsor to notify the Immigration and Naturalization Service should an exchange-visitor cease to pursue the activity for which he was admitted to the United States, complete the purpose of his visit, or fail to maintain the status under which he was admitted. In the latter event, the Department of State should also be notified.

Conditions of admission and stay of visitors—a visitor usually is admitted initially for not more than six months, and if he intends to visit in more than one immigration

district, his stay in each will be restricted to three months. A bond will be required if it is the judgment of the admitting immigration officer that one is necessary to guarantee the visitor's departure or compliance with the terms of his admission. Application for an extension of stay on Form I-539 may be granted but a bond, cash, or other undertaking may have to be deposited at this time if no previous assurance has been given. He may not accept any employment during his stay.

An exchange-visitor may be admitted for the period specified in the written agreement made by his sponsor or intended employer but for not longer than one year. No bond is required. However, in applying for a nonimmigrant visa in this category, the visitor must agree not to apply later for a change of status to any other nonimmigrant classification or to apply for adjustment of status to that of a permanent resident. He may accept employment if it is consistent with the purpose for which he was admitted. If an extension of stay is needed, he must submit with his application on Form I-539 a statement in writing from his sponsor or employer specifying the additional time required, the terms of the applicant's present and intended work on behalf of the sponsor, and the reasons for the extension.

C. *Transit aliens*

An alien applying for a nonimmigrant transit visa must establish to the satisfaction of both consular and immigration authorities that he

—seeks to enter the United States temporarily and solely for the purpose of proceeding in immediate and continuous transit through the United States to a foreign destination, or that he qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District by treaty arrangement;

—is in possession of a ticket for, or other assurance of, transportation to his destination;

—has enough funds to enable him to carry out the purpose of his transit journey or has enough money otherwise available for that purpose;

—holds a valid foreign visa or other form of permission to enter some foreign country. *Exception*: This is not required for one proceeding through the United States to apply for admission into Canada or some other country which does not require the alien to present a visa or any other form of permit as a condition of entry;

—intends in good faith, and will be able, to depart from the United

States at the expiration of the period for which he is allowed to enter; and

—is not ineligible for a nonimmigrant visa for any of the reasons described in Chapter IV.

Note: The personal servant or personal employee, such as a chauffeur, valet, lady's maid, nursemaid, or a private or social secretary, who is accompanying his or her employer in immediate and continuous transit through the United States may, if otherwise qualified, obtain a transit alien's visa. This does not include a domestic or household servant, such as a butler, cook, general maid, charwoman, or gardener.

Conditions of admission and stay—a transit alien may be admitted for any period of time not in excess of twenty-nine days. No extension will be granted except in emergent or extraordinary cases. Admitting immigration officers may require a bond to guarantee departure within the period of stay permitted. The immigration official in charge of the port of entry has the authority to demand, in place of a bond, that the nonimmigrant be accompanied in transit by any number of guards to insure his passage through and out of the United States without unnecessary delay. In such case all costs must be defrayed by the alien or the transportation line which brought him here.

An alien whose visa is limited to transit to and from the United Nations Headquarters must proceed directly to New York City and remain continuously there during his sojourn in the United States, leaving only when necessary to depart from this country.

D. Crewmen

A crewman's nonimmigrant visa will be issued to a seaman or airman who can satisfy the consular officer that he

—seeks to enter the United States only temporarily and in pursuit of his calling as a crewman; that is, as a person serving on a vessel or aircraft;

—is serving in good faith as a crewman in some capacity required for normal operation and service on board a vessel or aircraft proceeding to the United States;

—intends (and will be able to) reship from the United States with the vessel or aircraft on which he arrived or some other vessel or aircraft;

—is in possession of a passport or other travel document, which may be a crewman's identity certificate or other paper establishing his origin, identity, and nationality and showing that he will be unconditionally permitted to enter some foreign country after temporarily landing in the United States; and

—is not ineligible for a visa or for admission to the United States as a nonimmigrant for the reasons described in Chapter IV.

Aliens who are (1) employed on board a vessel or aircraft on duties or in capacities not ordinarily associated with or required for normal operation and service or (2) listed as regular members of the crew in excess of the number normally required for a crew will be regarded as passengers and are not eligible for crewmen visas. Aliens serving as members of a crew on board a fishing vessel having its home port or operating base in the United States are classifiable as immigrants.

Under present regulations, every crewman must apply for and obtain an individual nonimmigrant visa in the same manner as other nonimmigrant classes. However, until December 31, 1953 or such time that it becomes administratively practicable to act upon every application for an individual visa, a crew-list visa containing the name of the crewman and issued by a consular officer will be accepted by the immigration authorities, provided the crewman cannot get but has not been refused an individual visa.

A crew-list visa is usually issued by the consular officer nearest the foreign port from which the vessel or aircraft commences its voyage to the United States upon submission to him of a list of all the alien members of the crew who do not have individual visas or are not exempt from this requirement by special regulation. However, if no consular officer is nearby, the crew list may be submitted for visaing at the first port of call where an official is stationed. Crewmen signed on after the original crew-list visa has been obtained may be placed on a supplemental crew-list for visaing.

No crewman may be considered as having satisfied the documentary requirements for admission unless his name appears on the visaed crew-list or unless he has a proper individual visa. But the immigration authorities may waive the visa requirement, with the consent of the State Department, in unforeseen emergencies to permit a crewman to land in this country temporarily, usually for reasons of health or in the interests of the government, under the following conditions:

(1) When serving on a foreign warship or military aircraft of the armed forces of a foreign country making a friendly call or any other

government vessel or aircraft. This does not include any vessel or aircraft merely controlled or subsidized by a government or one engaged in what would ordinarily be regarded as commercial shipping or transportation. Entry of persons in this category is facilitated by advance arrangements between the responsible authorities.

(2) When operating solely between the United States and Canada.

(3) When operating between Florida and Habana, Cuba if a crew-list visa is obtained on the first of each month (or during the month if a crewman is signed on later).

(4) If a vessel proceeding between foreign ports is diverted from its course to a United States port under emergency conditions.

(5) When landing temporarily at, while serving, a port in the Virgin Islands.

The crew-list is visaed by means of a nonimmigrant visa stamp impressed on the official form for a crew-list. It is valid for six months from the date of issuance for the purpose of making one application at a port of entry to land temporarily. The last day of the period during which the visa will be valid is specified in the visa stamp.

Conditions of admissions and stay—no alien crewman is permitted to enter the United States without a *"conditional permit"* issued by the immigration port authorities. A bona fide nonimmigrant crewman, not otherwise excludable for any of the reasons described in Chapter IV, will be allowed to land on the following conditions:

CONDITION ONE: if the immigration officer is satisfied that the crewman intends to leave on the same vessel or craft, he may remain for the same period of time that the vessel or craft is in port but not longer than twenty-nine days.

CONDITION TWO: if the immigration officer is satisfied that the crewman intends to leave on some other vessel or aircraft within the time allowed, he may remain for twenty-nine days

provided further that the crewman

—agrees he will not pursue any employment or engage in any activity inconsistent with his admission as a crewman or not related to the purpose for which he was permitted to land;

—agrees to leave the United States within the period for which he was permitted to land;

—agrees to leave on the same vessel or aircraft which brought him to the United States if admitted on that condition; and

—is a bona fide crewman possessing his identity papers properly visaed.

The conditional permit—on Form I-95—when issued by an immigration officer under these conditions is placed in the crewman's passport. Any individual visa form issued

by a consular officer is also noted and returned to the crewman for use in effecting later entries into the United States.

A crewman permitted to land under CONDITION ONE who desires to depart as a member of the crew on a different vessel or aircraft may apply in person to an immigration officer to have his permit changed to that authorized under CONDITION TWO, if he maintains his status and makes timely application.

A crewman landing under CONDITION ONE may not be paid off and discharged from his vessel without special permission of the Immigration and Naturalization Service. A landing permit issued under CONDITION TWO, however, is regarded as an automatic consent to discharge.

A crewman seeking admission other than as a bona fide seaman or airman must comply with all the requirements for entry as a passenger.

In no event will a crewman be permitted an extension of stay for longer than twenty-nine days from the date of his first temporary landing except under the most emergent or extraordinary conditions. There are special provisions made by law for the landing and treatment of crewmen who are disabled and require hospitalization.

Special situations applicable to crewmen working on vessels plying on the Great Lakes or to crewmen returned to the United States under navigation laws or consular regulations are not considered in this book. The terms of admission to this country in most of these cases are arranged between the immigration authorities and the transportation lines employing or transporting the crewmen.

Violation of landing permit—generally the conditions of a crewman's permit to land in the United States are considered violated if

—it is determined that the alien is not a bona fide crewman. He is not a bona fide crewman if (a) he violates the terms of his admission, (b) shows in any way an intention to violate the terms of his admission, (c) engages in any activity inconsistent with his status as a crewman, or (d) was not entitled to land as a crewman at the time of landing.

—the alien crewman does not intend to depart on the vessel or aircraft which brought him to the United States if admitted under CONDITION ONE or some other vessel if admitted under CONDITION TWO. This violation may be indicated (a) by any evidence, oral or in writing, or by any conduct showing that he does not intend to

leave, (b) if he is found at such a distance from the port of landing that it will be impossible for him to depart in time, (c) if by reason of his own conduct it will be impossible to leave on the same or some other vessel, according to the terms of his permit, or (d) if he remains in the United States after the time for which he was allowed to land has expired.

In addition to deportation, the law provides criminal penalties for any alien crewman who wilfully remains in the United States for a longer period than permitted, making it a misdemeanor punishable upon conviction by a fine up to $500, imprisonment up to six months, or both. Should a crewman be detained for criminal prosecution or be confined in a penal or mental institution at the time he is found to be violating the terms of his landing permit, he will not be returned to his vessel until he is released. If his vessel has departed by that time, he can be deported on another vessel of the same transportation line or, if that is not practicable, in any other manner at the expense of the company which brought him.

It is emphasized that an alien crewman admitted under CONDITION ONE and deported thereafter has no right to a formal hearing as do persons in other nonimmigrant categories, and he has no privilege of appeal from the decision of an immigration officer to revoke his landing permit.

E. Treaty Traders and Investors

An alien applying for a nonimmigrant visa in this class must establish to both consular and immigration officials that he is entitled to enter the United States

—*as a treaty trader;* that is, solely to carry on substantial trade principally between the United States and the foreign state of which he is a national,
or
—*as a treaty investor;* that is, solely to develop and direct the operations of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital,

under and in pursuance of a treaty of commerce and navigation between the United States and his government. He must prove, too, that he is not ineligible to receive a visa or be admitted to the United States for reasons described in Chapter IV.

Such a visa is available also to the spouse or child(ren) of a treaty trader or investor accompanying or following to join him. The nationality of a spouse or child is not material to his or her classification in this group.

Definitions:

The term "national" as used here means a citizen or subject of a foreign country with which there is existing at the time of application for a visa and entry into the United States a treaty of "commerce and navigation" with the United States. A list of the governments with which this country maintains such treaties is set forth in APPENDIX B. "Trade" refers to trade of a substantial nature, international in scope and carried on by the alien in his own behalf or as an agent of a foreign person or organization engaged in trade and carried on principally between the United States and the foreign state of which the trader is a citizen or subject. Consideration is given to conditions in the trader's own government affecting his ability to carry on substantial trade with the United States.

Explanation: to qualify as a *treaty trader,* a nonimmigrant must establish that

—he is coming to the United States to carry on substantial trade as defined above. As evidence of this he may be required to submit bank statements, invoices, and correspondence from persons or organizations with whom or with which he has, or will have, commercial relations;

—he intends in good faith, and will be able, to leave the United States when either his status or the treaty of commerce under which he is operating is terminated; and that

—his employer, if he is employed or to be employed, will be a foreign person or organization and he will be engaged in duties of a supervisory or executive character, or, if he will be employed in a minor capacity, that he has special qualifications which make his services essential to the efficient operations of the employer. An alien employed solely as a laborer or in any other manual capacity is not entitled to a treaty trader classification.

To qualify as a *treaty investor,* a nonimmigrant must show that he

—is coming for the sole purpose of investing a substantial amount of capital pursuant to a treaty of commerce and navigation negotiated after June 27, 1952;

—is investing in an enterprise which actually exists or is in active process of formation and is not just a fictitious paper operation;

—is not applying for a nonimmigrant visa in an effort to evade the quota or other restrictions applicable to immigrants; and that he

—intends in good faith, and will be able, to depart from the United States upon termination of his status. Termination of status also

occurs if the treaty under which the investor is operating comes to an end.

Conditions of admission and stay—the period for which a trader or investor and his dependents may be admitted depends solely upon the period of validity of his passport and the discretion of the admitting immigration officer in determining the length of time it will be necessary for the nonimmigrant to accomplish his business.

A bond or other assurance may be required by the Immigration and Naturalization Service either at the date of his first admission or if and when an extension of stay is requested.

An application for extension of stay (on Form I-539) must be accompanied by a report (on Form I-126) showing that the treaty alien is maintaining his status, in addition to the usual documents called for by such application. The local immigration office will determine whether the applicant has been complying with the terms of his admission. Its decision is final—there is no appeal.

A trader or his dependent is considered to have lost the right to remain in the United States *if*

in the case of a trader or investor

—the treaty on which his status is based is terminated,

—his activities change in character from those described as a trader to those described as an investor or vice versa unless he first obtains permission for such change from the immigration bureau.

in the case of a dependent

—the trader (or investor) is no longer eligible to remain in the United States as a trader (or investor),

—the trader or investor dies,

—as to a dependent spouse, the marriage to the trader or investor ends, or

—as to a dependent child, the child marries or becomes twenty-one years of age, unless the dependent child or spouse would be entitled to treaty alien status in his or her own right upon the happening of the event and has the appropriate documents. If a dependent spouse proves her own eligibility, her child may be permitted to remain as a dependent, but if a dependent child establishes his own right to remain, that fact alone does not authorize his parent to stay.

Treaty traders admitted or authorized to remain in the United States for two years or more without limitation of time must file annual reports on Form I-126 with the immigration office having charge over his place of residence, showing that he is maintaining his status and continues to

be eligible for readmission to the country from which he came or to some other country. Failure to do so is considered a violation of the terms of his stay.

The report on Form I-126 must be presented or mailed about thirty days before the first year of stay is concluded and thereafter every year about thirty days before each anniversary of the trader's or investor's admission to this country. Both passport and temporary entry permit must be submitted with this report together with a written statement from his employer, if any, stating his present and intended position and duties. There may be included in the same report any dependents who *accompanied* the treaty alien to the United States. In all other cases, separate reports must be made.

It should be noted that certain treaty traders who were admitted to the United States between July 1, 1924 and July 5, 1932 and who are continuing to maintain their status may apply for permits to reenter the United States when contemplating trips abroad. This situation is explained on page 55.

F. Students

To qualify as a nonimmigrant student, an alien must establish that he

—has a residence in a foreign country which he has no intention of abandoning;

—is a bona fide student qualified to pursue, and seeking to enter, the United States temporarily and solely for the purpose of pursuing a full course of study at an established institution of learning or recognized place of study or research;

—has enough funds to cover his expenses or other arrangements have been made to provide for his expenses;

—has sufficient scholastic preparation and knowledge of the English language to enable him to undertake a full course of study in the institution which has accepted him; or, if his knowledge of the English language is inadequate to enable him to take up a full course of study in that language, the school must be equipped to offer and be ready to accept him for a full program of study in a language with which he is familiar. If the nonimmigrant wants to come to study English exclusively, the school must be equipped to furnish and have accepted him expressly for a full course in the English language, even though no credits are given for such study.

Note: In these cases, a copy of the letter of the school setting forth

the special arrangements must be attached to the visa issued by the consul.

—intends in good faith and be ready and able to leave the United States when his status has ended; and

—is not otherwise ineligible for admission to the United States, as explained in Chapter IV.

The prospective student must first be accepted and have made definite arrangements to enter an institution. He must agree not to attend any institution other than the one he is authorized to attend unless permission to do so is first obtained from the Immigration and Naturalization Service.

To pursue a full course of study, the student must carry courses consisting of a minimum of twelve semester hours as an undergraduate or a full program generally required for a graduate student or at an American institute of research recognized by the Attorney General. An "approved" educational institution is one which has been so designated by the Attorney General after consultation with the Office of Education of the United States after fulfilling certain requirements. One particular condition is that the institution agree to report to the Attorney General the termination of the attendance of each nonimmigrant alien student. Failure to make such report promptly is a cause for withdrawal of approval by the Attorney General.

An alien selected by his own government to study in the United States at that government's expense may be classified as a student unless he can qualify as an "exchange visitor" —see page 25—or accredited and accepted as a foreign government official—see page 21. An alien selected by his government for training in this country with any establishment should be classified as a temporary worker (trainee)—see page 38—unless he may be regarded as an exchange visitor or foreign government official.

Conditions of admission and stay—no nonimmigrant in this group is admitted initially for more than a year and, if deemed necessary, a bond may be required at the time of entry.

Ordinarily a student is not permitted to work during the school term for wages or for board or lodging. But if he does not have the means to cover his necessary expenses, he may apply (on Form I-24) for permission from the nearest office of the Immigration and Naturalization to

accept employment. If the student is meeting all the conditions of his status and proves that the desired employment will not interfere with his studies, permission will probably be granted.

If employment for practical training is required or recommended by the institution where the student is attending, he may be allowed such employment for a six-month period, subject to extension for not more than two additional six-month periods if the school and the training agency certify that his training cannot be completed in less time.

To obtain an extension of his original stay, a student must submit, in addition to other documents generally required for extensions, a statement from a responsible official of the school which he is attending setting forth

—the period of attendance at school;

—the courses and number of semester hours carried in the previous semester and whether in day or evening classes;

—the courses successfully completed and the courses failed during the previous semester;

—the semester hours now being carried;

—whether satisfactory arrangements have been made for the continued attendance of the applicant at school; and

—any known employment of the student.

G. Foreign government representatives to and employees of international organizations

An alien applying for a nonimmigrant visa in this category must come within one of the following groups:

(1) A designated principal resident representative of a foreign government, legally recognized by the United States, to an international organization of which his government is a member.

(2) An accredited resident member of his staff.

(3) An accredited representative (other than one within Group (1)) of a foreign government, legally recognized by the United States, to an international organization of which his government is a member.

(4) An accredited representative of a foreign government, legally recognized by the United States, to an international organization of which his government is *not* a member.

(5) An accredited representative of a foreign government, *not* legally recognized by the United States, of which his government is a member;

(6) An accredited representative of a foreign government, *not* legally recognized by the United States, to an international organization of which his government is *not* a member.

(7) An officer or employee of an international organization.

(8) An attendant, servant, or personal employee of a representative, official, or employee within one of the groups listed above.
(9) A member of the immediate family of any of the persons mentioned above.

To qualify as an "international organization" nonimmigrant, the alien must be travelling to or in transit through the United States solely on official business in connection with an international organization. Such organization must be one designated by the President of the United States as entitled to enjoy the privileges, exemptions, and immunities granted under a law known as the International Organization Immunities Act, approved December 28, 1945.

These privileges and exemptions include those accorded to officials and employees of foreign governments as to laws governing entry into and departure from the United States, alien registration and fingerprinting, and registration of foreign agents, as well as immunity from suit and legal process for acts performed in an official capacity (unless waived by the foreign government or international organization). A list of the organizations enjoying this recognition is contained in Appendix C.

A member of the "immediate family" of any alien in this class is a close relative by reason of blood, marriage, or adoption who will reside regularly in the household of the principal alien from whom he derives his nonimmigrant status. An "attendant" includes one who is paid from the public funds of the foreign government to which he owes allegiance or from the funds of the international organization, and who is accompanying or following to join the principal alien to whom he owes a duty or service. A "servant" or "personal employee" is one who is employed in a domestic or personal capacity by a principal alien, who is paid from the private funds of such alien, and who seeks to enter the United States solely for the purpose of such employment.

Any evidence required to establish a nonimmigrant's qualifications for a visa in this class may be called for by the consular official, including information as to the means and destination of his travel(s). Verification of the alien's status as a foreign government representative, etc., may be made through his foreign office or the international organization.

Should the purpose of travel be personal or for private

business or pleasure, the nonimmigrant must obtain a proper nonimmigrant entry permit for that classification, regardless of his position as a government official or an organization employee.

However, where an alien seeks to enter the United States as a foreign government representative to an international organization and, at the same time, is coming to this country as a foreign government official, he will be given a visa in the latter category.

Conditions of admission and stay—all representatives to, as well as officials and employees of, international organizations are admitted for as long a time as the Secretary of State continues to recognize him as a member of that class. This calls for notification to and tripartite acceptance by the United States, the international organization, and the foreign government to which the alien owes allegiance.

However, their attendants, servants, and personal employees, and their families, may not be admitted initially for more than one year and may be required to furnish bonds. Furthermore, if representatives, officials and employees of an organization lose their official status, members of their families, their personal employees, attendants, and servants, and their families, may no longer remain as nonimmigrants within the same class either.

Should an attendant, servant, or personal employee request an extension of stay in this country, he must attach to his application a written statement from his employer describing the applicant's current and intended employment.

*H. Temporary workers and trainees**

A prospective nonimmigrant, to qualify for a visa in this class, must establish that

—he has a residence in a foreign country which he has no intention of abandoning;

**Agricultural workers*—special legislation permits Mexican citizens under certain conditions to enter the United States as temporary agricultural workers through recruitment centers in Mexico established by international agreement. Except for the fact that the usual documentary requirements are replaced by a conditional permit, such nonimmigrant alien must satisfy many of the conditions applicable to a temporary worker. Unless additional legislation is enacted, his stay is limited to a period ending on December 31, 1953.

—he is not ineligible for a visa or excludable from the United States for any of the reasons explained in Chapter IV, unless given advance permission to come to the United States by the immigration authorities in spite of such excludability, and

—he is either

(a) of distinguished merit and ability, coming temporarily to the United States to perform temporary services of an exceptional nature requiring such merit and ability;

(b) coming to the United States to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country; or

(c) coming temporarily to the United States as an industrial trainee.

It is obvious that some contract or arrangement for the use of his services must have been made in advance between the prospective nonimmigrant and the employer before the petition to import the alien will have been made. If no such prearrangement exists in the case of an alien of distinguished merit and ability, he will be classified as a temporary visitor, as described on page 24, rather than in this category. Aliens who come to the United States under the "exchange visitor" program, as explained on page 25, are also classified as visitors and do not require petitions to be made on their behalf as described below.

An "industrial trainee" includes one who is coming to the United States for training in agriculture, commerce, communications, finance, government, or transportation, as well as for training in a purely industrial establishment. It also refers to an alien who seeks to pursue a course of study or training at a vocational training school in the United States.

An alien servant or personal employee of a member of the Foreign Service of the United States or any other citizen or resident of the United States, whether or not a citizen, may apply for a nonimmigrant visa in this classification, if coming to the United States temporarily in connection with his duties on behalf of his employer. However, special provisions are made for certain personal servants or employees accompanying employers who are visiting—see page 24—or are in transit through the United States—see page 27.

Petition by a sponsoring employer first required—no entry permit will be issued until the alien's prospective employer in the United States first has filed a petition with the Immigration and Naturalization Service requesting that he be imported to perform the services described above or to

undergo training. When the petition is approved and the consular officer is notified, only then is the nonimmigrant within one of the three groups mentioned here eligible to apply for a visa.

However, in spite of the approval of such a petition, a consular official may suspend action upon the visa application in order to submit a report to the Immigration and Naturalization Service if he has any reason to believe the applicant is not qualified to perform the services or undertake the training specified in his employer's petition. Immigration officials may, upon receipt of this advice, revoke their approval. Furthermore, if the alien is not eligible for a visa for any of the reasons specified in Chapter IV, the consular officer can refuse to issue the entry permit.

Procedure for importing a skilled or unskilled worker or trainee—application is made in duplicate on Form I-129B through the nearest office of the Immigration and Naturalization Service. It must be accompanied by a fee of ten dollars for each alien to be imported, payable in the form of postal, express, or bank money order or equivalent to the order of the Treasurer of the United States.

An employer who desires to import more than one alien may file a single petition on Form I-129B and include thereon all of his prospective employees provided those included on one petition are coming from the same place of origin and are destined to the United States for the purpose of performing the same type of services. This has been interpreted to refer to those nonimmigrants applying for visas at the same consulate. To cover prospective employees applying for entry permits through other consulates, separate petitions must be filed by the employer.

The petition, fee, and supporting documents should be filed with the immigration office having jurisdiction over the place where the prospective nonimmigrant(s) will work or be trained.

The following documents must be submitted in duplicate with the petition:

In the case of alien(s) of distinguished merit and ability (1)—a full, complete, and detailed description of the high education, technical training, specialized experience or exceptional ability of the alien(s) for whom the application is made and the manner in which such qualifications were acquired.

(2)—allegations of high education or technical training must be supported by original, certified, or photostatic copies of diplomas, school certificates, or equivalent documents or affidavits, attesting to such education or technical training and executed by the person in charge of the records of the educational or other institution, firm, or establishment where the education or training was acquired.

(3)—allegations of specialized experience or exceptional ability must be supported by affidavits attesting to and describing the degree and extent of the experience or ability, executed by the appropriate officer of the firm, organization, or other place where the alien acquired or perfected his experience or ability.

In the case of alien(s) coming to perform temporary services or labor.

(1)—one copy of a clearance order from the United States Employment Service concerning the availability of like labor in the United States and showing that the policies of that agency have been observed.

(2)—a statement containing a full, complete, and detailed description of the conditions which make the importation of the alien(s) necessary and showing whether the necessity to import is temporary, seasonal, or permanent, and if temporary or seasonal, whether it is expected to be recurrent.

(3)—a statement of the efforts made by the petitioner to secure persons in the United States to perform the same work, labor, or services and, as evidence, including clippings of advertisements placed in newspapers, trade journals, and similar publications in the field of that work, labor or services. There should be appended also copies of all correspondence, reports, replies received as a result of such advertisement, and if no reply or report was received, this must be shown.

In the case of industrial trainee(s).

A statement describing the kind of training to be given the alien, the position or duties for which the training will prepare him, and the reason why such training cannot be obtained outside the United States.

An approved petition will be automatically revoked if

—a visa is not issued under this classification within one year of the date on which the petition is approved;

—the petitioner dies, goes out of business, or files a written withdrawal of the petition before the beneficiary arrives in the United States to apply for admission under this classification.

Conditions of admission and stay—upon application at a port of entry in the United States following approval of an employer's petition and the issuance of a visa, admission not in excess of one year will be authorized. A bond to guarantee compliance with the terms of one's admission may be required. When applying for admission, a nonimmigrant worker or trainee must satisfy the immigration officer that he is destined in good faith to the employer who petitioned to import him and that he is coming in good faith

to perform the services, labor, or training specified in the petition.

An extension of stay may be granted upon the application of the alien's employer or trainer in writing and under oath. The application must include a statement describing the alien's current and intended employment or training. If a clearance from the United States Employment Service was required with the original petition for his immigration, another clearance must be obtained showing that the facts which justified his importation still continue to exist.

An employer or trainer who has imported more than one alien on the basis of a single petition may file a single application for an extension of temporary stay of such aliens.

I. News reporters and representatives of other information media.

A person requiring a nonimmigrant visa in this class for travel to the United States must satisfy both consular and immigration authorities that he or she is

—a representative of a foreign press, radio, film, or other foreign information medium who
(a) seeks to enter solely in that vocation,
(b) intends in good faith, and will be able, to leave the United States when his status in this category ends; and
(c) is not ineligible to receive a visa, as set forth in Chapter IV.

—or the spouse or child(ren) of such representative accompanying or following to join him or her.

In addition, for such alien to be acceptable as a foreign press, etc., representative, his government must be one that grants similar privileges to representatives of the American press or other information media. In short, entry permits in this category are available only on the basis of reciprocity. They will not be granted, for example, to would-be nonimmigrants from "iron curtain" countries which bar American news-gatherers. This restriction as to reciprocity applies regardless of whether any information medium is owned, operated, subsidized, or controlled privately or by a foreign government.

Exception: Information media correspondents to the United Nations, whose entry is authorized under the United Nations Headquarters Agreement, may obtain entry notwithstanding the attitude of their respective governments toward American correspondents. However, this category of nonimmigrants can be limited to the United Nations Headquarters area.

Conditions of admission and stay—persons within this classification may be admitted initially for not longer than one year and may be required to post bond at the port of entry.

The nonimmigrant may not change his employer or the information medium to which he is accredited without first obtaining the consent of the nearest immigration office. He must also agree to depart from the United States at any time that it is determined by the State Department that the privileges he is enjoying are no longer available to Americans of the same category within the country to which the alien owes allegiance. Moreover, if he loses his status, his family must also leave the United States.

Should he apply for an extension of stay, an alien newsman must attach to his application a statement in writing from his employer showing that he is a representative of a foreign information medium in the United States and explaining the applicant's current and intended activities and the reasons why an extension is required.

Chapter III

IMMIGRANTS: DOCUMENTARY AND OTHER REQUIREMENTS FOR ADMISSION

An immigrant generally is required to have

—*a passport valid for at least 60 days beyond the period for which an immigrant visa is valid* for use as a document of identity and nationality and as an unconditional permit to return to the issuing country or some other foreign country, should that be necessary or required.

—*an immigrant visa (entry permit) valid for a period of not more than four months* for use in making application for admission to the United States at any port of entry.

EXCEPTIONS: Visas and passports are not required for

—an alien immigrant child born after the visa is issued to an accompanying parent and seeking to enter the United States while the visa is still valid.

—an alien immigrant child born during a temporary visit abroad of a mother who is a lawful permanent resident alien or a national of the United States, provided

(a) the child is accompanied by the parent who is admissible to the United States,

(b) the child is entering the United States for permanent residence on the first return of the parent to this country after the child's birth, and

(c) application for admission to the United States is made within two years after the child's birth.

—an alien lawfully admitted to the United States for permanent residence and otherwise admissible, who is returning after a temporary absence

(a) from a temporary visit abroad in possession of a valid unexpired reentry permit—see page 55,

(b) of not over six months in Canada or Mexico in possession of a valid, unexpired resident alien's border crossing identification card—see page 55,

(c) of not over thirty days in Canada, Mexico, Cuba, Haiti, or the Dominican Republic, made under actual emergency conditions which prevented the traveller from getting a reentry permit or other entry documents before leaving the United States, or

(d) of forty-eight hours or less from a visit to Mexico and presents satisfactory evidence of previous lawful entry into the United States for permanent residence.

—an alien, previously lawfully admitted for permanent residence, who is travelling from one part of the United States to another on a trans-

portation line running through Canada, Mexico, or other adjoining territory, or who is proceeding from one U.S. port to another without touching a foreign port.

—a permanent resident alien reentering the United States from a journey on the same vessel or aircraft on which he left the United States and which did not leave the Western Hemisphere.

—a shipwrecked or castaway alien who was rescued and carried on a vessel or aircraft bound for the United States.

—certain resident aliens of the Virgin Islands and Alaska returning home after temporary visits to adjoining territory.

—certain aliens in whose particular cases special exemptions are made by the immigration authorities, either before or when application for admission is made to the United States (see page 83).

No visa is required of

—an American Indian born in Canada and having at least fifty percent blood of the American Indian race.

—an alien member of the Armed Forces of the United States who

(a) is in uniform or bears documents identifying him as a member of the Armed Forces,

—(b) has been previously lawfully admitted for permanent residence, and

(c) is proceeding to the United States under official orders or permit.

—certain alien crewmen (seamen or airmen), previously lawfully admitted for permanent residence, having in their possession alien registration receipt cards (on Form I-151).

No passport is required of

—an immigrant who is stateless or outside his own country and who proves that he cannot obtain a passport, provided that he can present two or more documents which, taken together, may be considered as travel documents issued by a competent authority

(a) showing the immigrant's origin, identity, and nationality, if any, and

(b) giving him unconditional permission to enter a foreign country at least 60 days beyond the period for which his visa is valid.

—a lawfully-admitted permanent resident alien returning to the United States from a temporary visit abroad.

—an alien member of the Armed Forces of the United States.

—an immigrant child under 2 years of age born during his mother's temporary visit abroad and accompanying his parent on the first return of that parent to the United States after the child's birth.

—an immigrant child or spouse of a U.S. citizen who has filed a petition for the issuance of a visa on his or her behalf, provided such immigrant

(a) is a stateless person or is applying for a visa outside the country of his nationality and

(b) establishes that he is unable to obtain a passport.

A national of a Communist-controlled country who is applying for a visa outside of such country may be considered unable to obtain a pass-

port if, because of his opposition to Communism, he is unwilling to apply to the government of such country for a passport.

—an immigrant who proves that he cannot obtain a passport and is exempted from such requirement upon application to the immigration and consular authorities, provided he does not come within one of the above exceptions.

Procedure for obtaining an immigrant visa

Application—is made on Form FS-256 at the consular office having supervision over the prospective immigrant's place of residence. If the applicant is physically present in another consular district, however, his application may be accepted at the nearest consulate if the consular officer is satisfied that its acceptance will not prejudice the security or interests of the United States.

A separate application for an immigrant visa must be made for each alien. However, a child under fourteen years of age or a physically handicapped person may have his application executed on his behalf by a parent, guardian or any person having a legitimate interest in him.

Every applicant without exception must appear personally at the consular office in connection with his application. Every pertinent question must be answered on the form and all blank spaces filled out with the information called for, after which the application must be signed and sworn to before the consular officer. He will also sign the application, affixing his title and seal on the form. A fee of five dollars is collected for the application and payment is indicated by a fee stamp in that amount pasted to the application and cancelled by the consular officer. In addition, a fee of twenty dollars is charged for the issuance of the immigrant visa itself.

Information required—there must be written in the application the full and true name of the immigrant and any other name which he has ever used or by which he has been known; his age and sex; race and ethnic classification—this refers to origin and not to religion; the date and place of his birth; present address and places of previous residence; whether married or single, and the names and places of residence of his spouse and children, if any; occupation or vocation; personal description; languages he can speak, read, or write; names and addresses of parents, and, if

neither parent is living, then the name and address of his next of kin in the country from which he comes; port of entry into the United States; final destination, if any, beyond the port of entry; whether he has a ticket through to such final destination; whether going to a relative or friend, and, if so, his name and address; the purpose for which he is going to the United States and the length of time he intends to stay in this country; whether he was ever arrested, convicted, or placed in a prison or almhouse; whether he has ever been the beneficiary of a pardon or an amnesty; whether he has ever been treated in an institution or hospital or other place for insanity or mental disease; if he claims to be a preference quota or a nonquota immigrant, the facts on which he bases his claim; whether or not he is a member of any class of individuals excluded from admission into the United States—see Chapter IV—or whether he claims to be exempt from exclusion under the immigration laws; and any other information required by the consular officer.

Photographs—three identical photographs, made at the time of the application, must be submitted with the application. They should be two by two inches in size, unmounted, printed on a light background and show a full, front view of face without head-covering (unless required for religious reasons). Each picture must be signed in such a way as not to obscure the features.

Supporting documents—there must be furnished with the application two certified copies of the following documents:

—*a police certificate* or certification from the appropriate police authorities stating what their records show concerning the applicant, including any and all arrests, the reasons therefor, and the disposition of each case of which there is a record.

—*any existing prison record* or official document containing a report of the applicant's record of confinement in a penal or corrective institution, including a report of his behavior while confined.

—*any military record* or official document containing a record of the applicant's service and conduct while in military service, including any convictions for crimes before military tribunals, as distinguished from other criminal courts. A certificate of discharge from the military forces or an enrollment book belonging to the applicant is not acceptable in place of an official military record, unless it shows the applicant's complete record while in military service. However, the consular officer may still want to see the discharge certificate or enrollment book even though it is not complete.

—*record of birth* or birth certificate showing the date and place of birth and the parentage of the applicant, issued by the official custodian of birth records in the country of the immigrant's birth and based on the original registration of birth. An alien who has only one birth certificate and cannot get another may present two certified or photostatic copies, but the original must be exhibited to the consular officer who may then return it.

—*any other records or documents concerning the applicant as required by the consular officer.* This refers to any official records which will help that official to determine the applicant's identity, proper classification, and eligibility to receive an immigrant visa.

If a consular officer is satisfied that any documents or records cannot be obtained by the applicant, he may permit him to furnish instead any other satisfactory evidence of what must be established. A document or record is considered unobtainable if it cannot be procured without actual hardship, other than normal delay and inconvenience, to the applicant or his family. If he has any reason to believe that a particular record or document is not authentic or has been tampered with, the consular officer may take any action he thinks is necessary.

He will not issue a visa to any alien who is ineligible to obtain one for any of the reasons described in Chapter IV except in the case of a person who

—suffers from a *physical* defect or disability, which will affect his ability to earn a living if he is required to earn one. However, this exception does not include persons suffering from mental defects, epilepsy, tuberculosis, leprosy, or any other dangerous contagious disease, or narcotic drug addicts or chronic alcoholics, or

—is likely to become a public charge,

and who is permitted in advance, by the Immigration and Naturalization Service, to furnish a bond or other satisfactory guarantee that he will not become a public charge. Such bond must be posted for an indefinite period until or unless the immigrant leaves the United States, becomes naturalized, or dies.

Proof of financial status—an applicant for an immigrant visa may also be required to furnish affidavits of support by persons in the United States to guarantee that the immigrant will not rely or fall back upon public assistance. In those cases where petitions are filed on behalf of nonquota and preference quota immigrants by relatives in the United

States, the consular officer may not only demand affidavits of support but may require proof of their financial ability to furnish such support also, such as:

—a statement of an employer, preferably on his business stationery, showing date and nature of employment, salary paid, and whether position is temporary or permanent.
—if self-employed, a copy of the sponsor's last income tax return or report of a commercial rating concern.
—statement from the bank or other financial institution in which he maintains his deposits showing the date on which the account was opened, total amount of deposits for the past year, and present balance.
—list or statement showing serial numbers and denomination of bonds and name of purchaser.
—additional affidavits of support from near relatives may also be submitted, if needed, obtainable from any immigration office. This form may be used by an unemployed married woman who desires to furnish a supplemental affidavit of support from her husband

The law fixes no limit to the period when the obligation created by the affidavit of a sponsoring relative to support an immigrant will expire. Until this obligation is defined by some court, the government may hold the sponsor to his promise to support an incoming alien indefinitely.

Informal examination—if an applicant for an immigrant visa proposes to precede his family to the United States, the consular officer may arrange for an informal examination of the other members of his family to determine whether there exists at that time any mental, physical, or other ground of ineligibility on their part to receive an immigrant visa. If such ground does exist, the applicant will be so informed and required to acknowledge in writing that he has been so informed. However, the fact that he is not informed does not carry any assurance that his family will be issued visas in the future. Their eligibility is finally determined not only when they make formal application for visas but also at the time they apply for admission to the United States before the immigration port authorities.

Physical and mental examination—every applicant must submit to such a check-up to help the consular officer pass upon his eligibility for a visa. Where medical officers of the United States Public Health Service are available, they will make the examination; otherwise, it will be done by a reputable and competent doctor from a panel of approved

physicians. If laboratory facilities are not available for the necessary tests, they will be made at a port of entry in the United States but, in that case, the alien may be excluded on findings then made.

Registration and fingerprinting—every applicant for a visa must be fingerprinted excepting a child under fourteen years of age. Fingerprinting may take place when the prospective immigrant is informally examined to help the consular official make his inquiries. Registration as an alien automatically occurs when the application for the visa is executed before the consular officer and the visa is issued.

Issuance of the visa—should the application be approved, Form FS-256 is endorsed on the reverse side by the consular officer with the date of issuance and the symbols and numbers to indicate the appropriate immigrant classification—quota or nonquota, preference or nonpreference—and the order of priority. His signature, title, and seal of office partly covering the applicant's photograph are also affixed and a fee stamp in the amount of twenty dollars is pasted and cancelled on this side of the visa application. When all this is done, the visa application becomes an immigrant visa and is delivered to the immigrant or his authorized representative.

The successful applicant must present his passport at this time also, and if his government is one that is recognized legally by the United States, the following notation will be placed in it:

Nonquota
Quota .....Immigrant Visa.....

No.....

Dated .....

Issued to .....
Name

American Consul at .....

No seal, stamp, or notation of any kind is placed in a passport issued by a government not recognized "de jure" by the United States.

Refusal of the visa application—a visa application is considered defective and will not be approved if

—the applicant fails to furnish any information called for in the application or by the consular officer,
—the application is not supported by the necessary documents referred to above,
—the applicant refuses to be fingerprinted,
—the necessary fees are not paid for the application or for the immigrant visa itself,
—the applicant fails to swear to or affirm the application before the consular officer, or
—the application otherwise fails to meet the specific requirements of law for reasons for which the applicant himself is responsible.

Refusal of the immigrant visa—if, as a result of a preliminary examination before formal application for a visa is made, the would-be immigrant is advised that a visa cannot be issued for one or more of the reasons mentioned in Chapter IV, he may prefer not to file the formal application on Form FS-256 and thereby save the fees involved. But should he file the formal application, the consul must make a formal refusal by writing or stamping diagonally across the visa side of the form in red ink the words: "Visa refused under the authority of .....," inserting the specific provision of law or regulation on which the refusal is based. This is signed and dated by the consular officer and the application fee stamp is mutilated. The original application form is returned to the applicant with any supporting documents not required to be attached.

Revocation of the immigrant visa—a consular officer may revoke a visa if

—he knows or is satisfied after inquiry that the visa was procured by fraud, deceit, or other unlawful means, or
—he obtains information establishing the alien was otherwise ineligible to receive the particular visa at the time it was issued.

Notice of revocation is given to the alien at his last known address before his departure for the United States and, if circumstances permit, he is given an opportunity to show why his visa should not be revoked. Notice is also given to the transportation line on which the alien is known or believed to intend to travel to the United States.

The alien is also requested to surrender his visa to the consular officer, who will write the word "Revoked" across

its face and will sign and date that notation. Any legend in the passport concerning the issuance of the visa will also be cancelled. Documents furnished by the alien may or may not be returned, in the discretion of the consular officer. The visa fee of twenty dollars will not be returned unless the State Department specifically permits the consular officer to do so. This depends on whether the wrongful issuance of the visa was the fault of the applicant or the consular officer.

Revalidation, replacement, and transfer of the visa—since the period of the validity of an immigrant visa for use in entering the United States may not exceed four months, its validity may be extended up to but not more than four months only if the original period of validity was less than four months. Application for an extension may be made at any consular office. There is no fee involved.

If a nonquota immigrant visa has been lost or mutilated or has expired, a new one may be issued at any consular office upon payment of the full application and visa fees ($25) if the immigrant is still qualified to receive such visa. If a quota immigrant visa is lost or mutilated or cannot be used because of reasons beyond the control of the immigrant and for which he is not responsible, he may be issued a replaced quota immigrant visa under the original quota number for the same quota year in which the original visa was issued upon payment of the full application and visa fees, provided he is still eligible for a visa.

The case of an applicant for an immigrant visa pending in one consular office may be transferred to another consular office at his request and at his own risk, provided

—the applicant is outside the United States and submits a written request to the consular office having charge of the district in which he is physically present, and

—the receiving consular office approves the request, accepts jurisdiction, and obtains the complete file of the applicant from the original consular office.

An alien who is in the United States may not have his case transferred unless he is required to be in this country because of the inherent nature of his business, occupation, or employment and cannot return to the country where the consular office which has his file is located.

Any person requesting transfer of his case must assume the loss or damage resulting to him from such transfer and may be required to sign an agreement to that effect. The receiving consular office may refuse to accept or take a transfer if inquiry discloses that the security or welfare of the United States will be affected.

NONQUOTA AND PREFERENCE QUOTA IMMIGRANTS: *special requirements.*

Definitions of terms used in this chapter—

A "spouse", "husband" or "wife" does not include a prospective husband or wife by reason of any marriage ceremony where the parties were not physically present in each others presence, as in a proxy or picture marriage, unless the marriage is consummated. With this exception, these terms do refer to a spouse by reason of a marriage recognized as valid under the laws of the country where the marriage was performed.

A "child" refers to an unmarried person under twenty-one years of age, regardless of sex. It does not include (a) *an adopted child;* (b) *a child born out of wedlock* unless the child was legitimated under the law of either the child's or the father's residence, whether in or outside the United States, provided (1) the legitimation took place before the child became eighteen years of age and (2) the child was in the legal custody of the legitimating parent or parents at the time of such legitimation; or (c) *a stepchild* unless the child was less than eighteen years of age when the marriage making him a stepchild took place.

A "parent" does not include (a) *an adoptive parent* or (b) *a stepparent* unless the marriage creating the status of stepparent occurred before the stepchild reached the age of eighteen years.

In addition to the general requirements and procedure for the issuance of an immigrant visa outlined above, there are certain prerequisites which must be fulfilled by immigrants who claim nonquota or preference quota status. It should be kept in mind, as well, that where a spouse and child of a privileged immigrant claim the same exemption or priority only because the principal immigrant is eligible for and has received his nonquota or preference quota visa, for them to be admitted to the United States in the same status, the principal immigrant must have been actually permitted to enter this country so classified by the immigration authorities.

Nonquota Immigrants

As mentioned previously, a nonquota immigrant is one

who is not subject to any of the numerical restrictions of the quota system described in Chapter I. As between the several classes of nonquota immigrants, there is no priority. However, consular officers are authorized to establish waiting lists where the demand for nonquota visas is so heavy that all applications may not be acted upon concurrently from day to day. The purpose of this procedure simply is to establish an orderly schedule of appointments under a system of advance examination of the documents of prospective immigrants.

A.....*Spouse or child of a United States citizen*—regardless of his ancestry or race, an alien so related may obtain a nonquota immigrant visa from a consular officer valid for admission at a port of entry, provided

—proper evidence is presented that (s)he is the husband, wife or unmarried child under twenty-one years of age of a citizen of the United States.

—a petition to grant the prospective immigrant nonquota status, filed by the United States citizen spouse or parent, has been approved and forwarded through the State Department to the consular official handling the application for the immigrant visa (The procedure for filing such petition is described on page 63).

—s(he) is not otherwise ineligible for a visa for any of the reasons explained in Chapter IV.

In issuing a visa to the immigrant child, the consular officer will warn him, if he is approaching the age of twenty-one years, that he will not be admissible as a nonquota immigrant if he fails to apply for admission at a port of entry in the United States before reaching the age of twenty-one.

B. *Returning resident alien*—regardless of his ancestry or race, an alien who was previously lawfully admitted to the United States for permanent residence and is returning to this country from a temporary visit abroad is entitled to a nonquota immigrant visa, if he is not otherwise excludable as explained in Chapter IV.

To be eligible for a nonquota immigrant visa, he must establish specifically that he

—had the status of an alien lawfully admitted for permanent residence at the time he left the United States. If the consul has reason to question this, he may require verification through the Immigration and Naturalization Service at the expense of the alien.

—departed from the United States with the intention of returning.

—is coming back to the United States from a temporary visit abroad. If his stay abroad was protracted, he must show whether the reasons therefor were beyond his control and whether he was responsible therefor in order that the consular official may decide if the absence was a temporary one.

A returning immigrant may be required to furnish the same documents usually presented by other classes of immigrants with their visa applications if the consul considers this necessary. In addition, he may be asked to exhibit his alien registration receipt card, which must be in the possession of all resident aliens, and any expired reentry permit if one has been issued to him. The bearer of an unexpired reentry permit or border-crossing card—(described below) may not obtain an immigrant visa unless the consul has been specifically authorized to do so by the Immigration and Naturalization Service and the State Department.

IMPORTANT: a resident alien may prefer to obtain directly from the nearest office of the Immigration and Naturalization Service an entry document known as a REENTRY PERMIT *before leaving the United States* instead of an immigrant visa while abroad, or, if he contemplates an absence in Canada or Mexico of not more than six months, he may obtain (or use, if he already has one) an alien registration receipt card (Form I-151) as a border crossing identification card.

One of the advantages of obtaining a reentry permit or border crossing card is that the usual requirement of a visa and a passport is eliminated in applying for reentry to the United States. However, it should be kept in mind that these documents are useful only in satisfying the *documentary* requirements and do not relieve an alien from meeting the other requirements of the immigration laws.

As explained in Chapter IV, persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude either before or after entering the United States, other immoral, criminal, insane, mentally or physically defective aliens, those afflicted with loathsome or contagious diseases, and others found to be inadmissible under the immigration laws may be excluded if attempting to reenter irrespective of the fact that they might hold reentry permits or border crossing cards.

Nor does a permit to reenter relieve any person interested in becoming a citizen of the United States from the requirements of residence and physical presence in this country under the naturalization laws except under certain conditions. If the reader is concerned with the effect of any absence from the United States upon his eligibility for naturalization, he should consult a companion publication entitled, "How to Become a Citizen of the United States" written by Margaret E. Hall, 2d edition (1953) with special reference to Chapter IV.

Procedure for obtaining a reentry permit—any alien lawfully admitted for permanent residence to and physically present in the United States at the time of his application may apply to any local office of the Immigration and Naturalization Service on Form I-131 for a permit to reenter the United States. The application must be submitted at least thirty days before the proposed departure, showing, among other things, the facts relating to his lawful admission to the United States for permanent residence, his last absence, if any, from this country, and the details of his proposed trip, including port and date of departure, length of absence, reasons for going, and temporary address while abroad.

A separate application must be submitted by each alien, regardless of age. A parent or guardian must execute the application in behalf of a child under the age of 14 years. The form should be typewritten or printed in ink. The contents must be sworn to either before an officer of the immigration bureau without charge or before a notary public or other officer authorized to administer oaths.

Two photographs and a fee of $10 must accompany the application. The pictures must be taken within 30 days of the date of the application. They must be identical, 2 by 2 inches in size with distance from top of head to point of chin approximately 1½ inches. They must be taken on thin paper, have a light background, and clearly show a front view of the face without hat. Snapshots or group photographs will not be accepted. The pictures must be signed on the margin and not on the face or clothing. The fee must be in the form of a remittance payable to the Treasurer of the United States.

If the local immigration office finds that the applicant is qualified and is making the application in good faith and that his proposed departure would not be prejudicial to the interests of the United States, a permit to reenter the United States will be issued for use during a period not longer than one year.

If the application for a reentry permit is denied, the applicant may appeal within ten days of his notice of denial to the Assistant Commissioner, Inspections and Examinations Division, at the Central Office of the Immigration and Naturalization Service, Washington, D.C. His decision is final. If the application is again denied, the fee will be returned.

If an applicant finds it absolutely necessary to leave the United States and satisfies the immigration authorities that a bona fide emergency requires him to depart before securing the permit, arrangements will be made to forward the document to a consular officer abroad for delivery. However, an Immigration and Naturalization officer should be consulted before the applicant leaves the United States.

No reentry permit (or extension of one) will be granted to any alien who is subject to registration for service in the Armed Forces of the United States unless he first obtains the consent of his local draft board to be absent from this country. The validity of the permit will depend upon the period of absence allowed by the local board but in no instance to exceed one year.

If the holder of a reentry permit desires an extension, he must, 30 to 60 days before the expiration date shown on the permit, file with the local immigration office in the district of his home address an application in writing, stating (a) his name and address in the United States; (b) date, place, and the manner in which he departed from the United States; (c) port of landing and date of arrival abroad; (d) countries visited in the order visited; (e) reasons for requesting extension and period for which desired; and (f) applicant's address abroad. The application must be sworn to—if abroad, before a consular officer.

A fee of $10 must accompany the application for extension in the form of a bank draft drawn on a bank in the United States or an express money order or international money order drawn on the postmaster in the city to which

the application is being sent and payable to the order of the "Treasurer of the United States, Immigration and Naturalization Service." If the extension is refused, the fee will be refunded.

The original entry permit must also accompany the application for extension. Approval of the extension is noted on the permit which is returned in person or by mail to the applicant if he is in the United States or if abroad, through the nearest consular officer or directly to the address given in the application.

During the period of its validity, a reentry permit may be used for making any number of reentries into the United States. Extensions may be granted for a period or periods aggregating not longer than one year from the original expiration date. If the validity of the permit expires while the alien is abroad, he must obtain a nonquota immigrant visa from the American consul before embarking for the United States and at such time surrender to him his expired permit.

Reentry permits are available also to aliens who were admitted to the United States as treaty traders between July 1, 1924 and July 15, 1932, pursuant to a treaty of commerce and navigation, and who have been maintaining their nonimmigrant status. Application is made on Form I-131 in the same manner as described for resident aliens.

Procedure for obtaining a border crossing identification card—any alien previously lawfully admitted for permanent residence may use an alien registration receipt card on Form I-151—a small, green, laminated card showing compliance with alien registration requirements and lawful admission to the United States for permanent residence—for use in making visits to Canada or Mexico not longer than six months at any one time. This card may be used in place of a reentry permit or immigrant visa in applying for readmission to the United States at any border port and is valid indefinitely.

Note: Resident aliens who have been using border crossing cards heretofore issued on Form I-187 may continue to use them by having them revalidated. However, no extension will be granted on this form beyond June 30, 1954, after which date the green Form I-151 must be used exclusively.

Many noncitizens possess alien registration receipt cards, also known as

fingerprint cards, previously issued on forms other than I-151. They may not be used as border crossing cards. Application must be made on Form I-90 at the nearest immigration office for replacement by the green alien registration card I-151. The application must be accompanied by two photographs and a fee of $5.

C. *Native of certain Western Hemisphere countries, his wife and child*—an alien immigrant is entitled to nonquota classification if he establishes that he was born in Canada, the Republic of Mexico, the Republic of Cuba, the Republic of Haiti, the Dominican Republic, the Canal Zone, or an independent country of Central or South America. His spouse and child(ren) accompanying or following to join him also are eligible for nonquota immigrant visas.

This classification, however, is not available to a prospective immigrant or his spouse if he or she possesses at least fifty percent Asiatic bloodstock attributable to the Asia-Pacific Triangle described on page 4. Either or both persons of Asiatic ancestry must be charged to the quota of the Triangle or of one of the countries within that Triangle.

The child of such alien is not affected by racial strains and if otherwise eligible for nonquota status in this group, he will obtain a visa in this classification, regardless of his ancestry.

The term "native", it is stressed, refers to one born in a nonquota country. The place of residence, citizenship, age, or sex is not important.

D. *Former United States Citizens*—the following persons may receive nonquota visas and be admitted as immigrants at American ports of entry if they present to the American consul proper documentary evidence of their right to such status:

(1) *Women expatriates*—a former citizen of the United States who lost her citizenship by reason of

—marriage to an alien before September 22, 1922,

—loss of United States citizenship by her husband before September 22, 1922, or

—marriage to an alien ineligible to citizenship—a person of Asiatic blood—before March 3, 1931

and who has not acquired any other nationality by any affirmative act other than marriage, such as by accepting foreign citizenship or taking an oath of allegiance to a foreign state.

Between March 2, 1907 and September 22, 1922 the laws of the United States provided that an American woman who married an alien took his citizenship and lost her own. In addition, marriage to a person of Asiatic blood, ineligible by the law in effect at that time to become a citizen, caused loss of American citizenship to his wife up to March 3, 1931.

Persons who suffered expatriation in this manner, however, were permitted to resume United States nationality in various ways. While women who became citizens by birth may, if abroad, be restored to the status of full citizenship by taking the oath of allegiance to the United States before a diplomatic or consular officer of the American Government, women who originally acquired citizenship through a parent or in any manner other than through birth must return to the United States to be naturalized, if they took up or maintained a foreign residence following their marriage.

The naturalization laws demand that a person in the latter category be lawfully admitted for permanent residence. To enable her to return to this country to be repatriated, she is permitted to procure a nonquota visa without quota restriction or delay. Nor is her eligibility affected by her present marital status or her ancestry. A native-born woman who prefers to take her oath of repatriation before a naturalization court rather than before a State Department representative abroad may also obtain a nonquota visa in this manner for that purpose.

(2) *Military expatriates*—regardless of his ancestry, a former citizen of the United States who lost his citizenship by entering, or serving in, the armed forces of a foreign state at any time between September 1, 1939 and September 2, 1945 if

—such country was allied with the United States between December 7, 1941 and September 2, 1945, and

—such country was not at war with the United States during any period of his military service.

A prospective immigrant is entitled to the benefits of this classification, also, if he lost United States citizenship by

—entering the military, air, or naval forces of an allied country, whether or not he performed any military service, or

—taking an oath of allegiance for the purpose of entering the military service of an allied country, whether or not he served.

Before January 13, 1941 no person could lose American citizenship by military service unless he voluntarily took an oath of allegiance in connection with such service. After January 12, 1941 and until December 23, 1952, military service alone in behalf of a foreign country was enough to cause loss of citizenship if the person involved had or acquired the nationality of that country.

(3) *Children expatriates*—regardless of his ancestry, a former citizen of the United States who

—lost his citizenship before January 1, 1948 through the naturalization of a parent or parents in a foreign state, and
—makes application for a nonquota immigrant visa on or before December 23, 1953.

E. *Minister of religion, his wife and child*—regardless of his ancestry, an alien is eligible for nonquota status if

—he establishes that continuously for at least two years immediately before making his application for admission to the United States, he has been carrying on the vocation of a minister of a religious denomination,
—he satisfies the consular and immigration officers that he seeks to enter the United States to pursue his vocation as a minister on behalf of a recognized religious denomination which is in need of his services and which has a bona fide organization in the United States, and
—such sponsoring organization files a petition with the Immigration and Naturalization Service to grant this alien nonquota status and the petition is approved and transmitted to the consular official handling the visa application.

If these requirements are fulfilled by or on behalf of the prospective immigrant, nonquota immigrant visas will be made available also to his spouse and child, if any, accompanying or following to join him.

The term "minister of a religious denomination" means a person duly authorized by a recognized religious sect or denomination to conduct religious worship and to perform other duties usually performed by a regularly ordained pastor or clergyman. It does not include a lay preacher not authorized to perform the duties generally carried out by a regularly ordained pastor or clergyman of the same denomination, nor does it refer to a nun, lay brother, or cantor.

Procedure for filing a petition on behalf of a minister—application is made on Form I-129A in duplicate and filed

with the nearest office of the Immigration and Naturalization Service by the sponsor for which the ministerial services are to be performed.

The petition should be accompanied by a statement, preferably on official stationery, regarding the ordination or other authorization of the immigrant to act as minister, and showing the name of each religious denomination or sect, the period of service, and the addresses at which such services were performed during the past two years. The statement must be signed by the appropriate official having knowledge of the prospective immigrant's religious service abroad and must show the source of the official's knowledge of such service.

The petition must be sworn to before a notary public or other officer authorized to administer oaths—if executed outside the United States, the oath may be taken before a consular official. A fee of $10 for each beneficiary must be remitted with the petition, drawn in favor of the Treasurer of the United States.

If after the necessary inquiry, the immigration office is satisfied that the proposed immigrant is eligible for nonquota classification, the petition will be approved. If it appears, however, that the beneficiary of the petition will be inadmissible to the United States for other reasons, the sponsor will be so advised, to give it the opportunity to withdraw its petition. Whether the organization does or not, the fee will not be returned. If the petition is disapproved, an appeal may be taken, within ten days after notice of disapproval, to the Central Office of the Immigration and Naturalization Service at Washington, D.C. where a final decision is made.

An approved petition is valid for one year from the date of the approval and for such additional periods as extended by the immigration authorities. The petition will be revoked automatically if

—the beneficiary is not issued a visa within one year of the date the petition is approved

—the petitioner dies, goes out of business, or files a written withdrawal of the petition before the beneficiary arrives in the United States to apply for admission under this classification.

F. *United States Government employee, his wife and child* —regardless of his ancestry, an alien may obtain nonquota

immigrant classification if the consular officer is satisfied that he

—has served the United States Government faithfully as an employee for a total period of not less than 15 years;
—performed such service abroad for one or more establishments of the United States Government (not necessarily for the Foreign Service);
—retired, if a former employee, under honorable conditions; and
—has been recommended for nonquota status by the principal officer at the diplomatic or consular office where the alien is applying for a visa and such recommendation is approved by the Secretary of State on the basis of a finding that the granting of such status is in the national interests of the United States.

If eligible to immigrate under these conditions, an alien may bring his wife and child(ren), if any, to the United States in the same nonquota status.

PROCEDURE FOR OBTAINING NONQUOTA STATUS FOR A RELATIVE OR PREFERENCE QUOTA STATUS

Nonquota immigrants and preference quota immigrants have been specifically referred to in Chapter I and, as mentioned there, the spouse or child of a United States citizen claiming nonquota status and all persons claiming priority in the order of issuance of quota visas must depend first upon the approval of a petition on their behalf filed by a sponsor with the Immigration and Naturalization Service in the United States and transmitted, after approval, to the consular official handling the visa application. The rules for filing an acceptable petition are as follows:

Preparation of the petition—the proper form of petition depends upon the classification of the immigrant:

For a Nonquota Immigrant wife, husband, or child, petition is made by the U. S. citizen on *Form I-*133.

For a First Preference Immigrant (urgently needed and highly skilled person), petition is made by any individual, institution, firm, corporation, or government agency desiring his services on *Form I-*129. No petition is required, however, for the wife or child of such immigrant.

For a Second Preference Immigrant parent, petition is made by a U.S. citizen over 21 years of age on *Form I-*133.

For a Third Preference Immigrant husband, wife, or child, petition is made by a resident alien who (a) has been lawfully admitted to the United States for permanent residence, and (b) has not changed his immigrant status in any manner, as by becoming a nonimmigrant, or by

subjecting himself to deportation by violating any immigration laws, on *Form I-133A.*

For a Fourth Preference Immigrant brother or sister, son or daughter, petition is made by a U.S. citizen on *Form I-133.*

The proper form may be obtained not only from any office of the Immigration and Naturalization Service but also from many non-profit welfare agencies devoted to serving aliens and immigrants, and it may be purchased from the Superintendent of Documents, Washington 25, D.C. Outside the United States, it is furnished by any American consulate.

The petition must be prepared in duplicate, every question therein truthfully answered, and signed with the full, true, and correct name of the sponsor, who must then swear to the same before either an officer of the Immigration and Naturalization Service, for which there is no fee, or a notary public or other person authorized to administer oaths, in which case his official seal or certificate of authority must be affixed. If executed outside the United States, however, the petition may be sworn to before a consular officer.

The importance of furnishing the correct information is emphasized by the fact that criminal penalties are provided by federal law against those "who knowingly make under oath any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other documents containing any such false statements."

Information called for in the petition varies with the form:

For a First Preference Immigrant, the sponsor must describe himself—if a corporation, when and where incorporated—and the nature of his (its) business and income, explain the kind of work or services to be performed by the beneficiary and the terms of his employment, and identify the beneficiary by name and address, stating whether he was ever in the United States before, where he will perform his work, and whether he will be accompanied by his wife and child(ren).

For a Nonquota Immigrant spouse or child or for a Second or Fourth Preference Immigrant, the petitioner must identify the beneficiary, giving his or her name, address, and relationship, among other things, showing whether s(he) was ever in the United States before and where s(he) intends to live. The sponsor must furnish full identifying information about himself, including the facts of his citizenship—see Note 3 below—, his family and marital history, and answer inquiries as to possible loss of citizenship and absences from the United States.

For a Third Preference Immigrant, the petitioner must identify the beneficiary by name, address, relationship, date and place of birth, and show whether he has been in the United States before and where he intends to live. The sponsor must furnish detailed information as to the facts of his own arrival in the United States, any absences, and his marital and family history.

Supporting documents to accompany the petition—documents in a foreign language must bear certified English translations:

For a First Preference Immigrant:

1. A clearance order from the U.S. Employment Service showing that qualified persons are not available within the United States to perform the labor or services which are to be performed by the proposed immigrant.

Note: This certification can be obtained by an employer only when and if a bona fide job cannot be filled in his state through the recruitment efforts of the State Employment Service. To obtain such certification, the employer must first place a job order with the local office of his State Employment Service. The job specifications must be realistic and reflect the actual requirements of the job, not simply the qualifications of a specific alien or alien group. After a reasonable time, the original local office reports on the success of its recruiting, including information about the obstacles to filling the job and the employer's cooperation. If the U.S.E.S. which makes the final determination agrees that no qualified applicants are available, it sends three signed copies of the Clearance Order (Form ES-560) to the local office. From there, they are forwarded to the employer to be included in his (its) petition to the Immigration and Naturalization Service.

Exception: Certain vocations and professions need no clearance order as described here if they have been certified in advance as in short supply. Inquiry should be made in this respect through the U.S.E.S. or the Immigration and Naturalization Service.

2. A statement setting forth a full, complete, and detailed analysis establishing in what manner the services of the beneficiary will be substantially beneficial prospectively to the national economy, cultural interests, or welfare of the United States.

3. A full, complete, and detailed description of the high education, technical training, specialized experience, or exceptional ability of the beneficiary on the basis of which the beneficiary's services are alleged to be urgently required in the United States.

Note: Allegations of high education or technical training must be supported by original, certified, or photographic copies of diplomas, school certificates, or equivalent documents or affidavits, attesting to such education or technical training, executed by the person in charge of the records of the institution, firm, or establishment where the education or training was acquired, improved, or perfected.

Allegations of specialized experience or exceptional ability must be

supported by affidavits attesting to and describing the degree and extent of special experience or ability, executed by the appropriate officer of the organization or institution where such ability or experience was acquired, improved, or perfected.

4. If desired, the petition may also be supported by a written statement from an organization, society, or institution active in the field of the work, labor, or services in which the prospective immigrant is to be engaged, showing the need for his services and his qualifications.

There may also be attached to the petition, if the sponsor wishes, a statement of the efforts made by him or on his behalf to secure persons in the United States to perform the work, labor, or services sought. The statement may include clippings of advertisements placed in newspapers, trade journals, professional and similar publications in the field of such work or services, and copies of all correspondence, reports, replies and responses received or obtained as a result of such advertisements. If no response was received, this should be indicated.

5. If the petition is made by an agent or representative of an institution, firm, organization, or government agency, there must be attached evidence showing that the official executing the petition is a properly authorized representative of such institution, etc.

For a Second Preference Immigrant parent of a U.S. citizen:

1. Birth certificate of the petitioner (sponsor).
2. Marriage certificate of his or her parents.
3. Evidence of the petitioner's U.S. citizenship—see Note 3 on page 67.

For a Third Preference Immigrant spouse or child of a lawful resident alien:

For a spouse beneficiary—(1) a certified copy of the marriage certificate; (2) documentary evidence of the termination of any previous marriages of either party (usually death certificate or divorce decree).

For a child beneficiary—(1) a certified copy of the sponsoring parent's marriage certificate and, (2) if either or both parents were previously married, evidence of the termination of such marriage, usually by death certificate or divorce decree; (3) birth certificate of the child, showing his parents' names.

For a Fourth Preference Immigrant brother or sister, son or daughter:

For a brother or sister—(1) a certified copy of his or her birth certificate; (2) a certified copy of the sponsor's birth certificate; (3) Evidence of the sponsor's U.S. citizenship—his birth certificate will do if American born; otherwise see Note 3 on page 67. The birth certificates should show common parents, otherwise their marriage certificates will be required.

For a son or daughter—(1) a certified copy of the sponsor's marriage certificate; (2) birth certificate of the beneficiary; (3) Evidence of U.S. citizenship of the sponsor—birth certificate if American born or other proof as described in Note 3 on page 67.

For a Nonquota Immigrant spouse or child:

For a spouse beneficiary—(1) a certified copy of the marriage certificate; (2) documentary evidence of the termination of any earlier marriages by either party, usually death certificate or divorce decree; and (3) evidence of U.S. citizenship of the sponsor—either birth certificate if American morn or other evidence as described in Note 3 below.

For a child beneficiary—(1) a birth certificate of the child, showing his parents' names; (2) certified copy of the sponsor's marriage certificate; (3) documentary evidence of the termination of any prior marriages of the sponsor—death certificate or divorce decree; and (4) evidence of the sponsor's U.S. citizenship—either birth certificate or as described in Note 3.

NOTE 1. A petition by a U.S. citizen or by a permanent resident alien on Form I-133 or I-133A may include more than one beneficiary in the family group if they are making applications for their visas at the same consulate, except that only a single petition may be filed for *each* beneficiary in the Fourth Preference Immigrant category; that is, brother or sister or children over 21 years of age or married. Where the beneficiaries are of the same family group, a single set of documents may cover them all.

NOTE 2. If the beneficiary of a petition was ever excluded and deported arrested and deported, removed from the United States after having fallen into distress or as an alien enemy or removed at government expense in lieu of deportation, the facts must be set forth in a separate statement accompanying the petition, showing the date and reason for the proceeding, the port of departure, and the residence address of the prospective immigrant at the time the proceeding was instituted.

NOTE 3. If the petition is for the issuance of a nonquota or 2d or 4th preference quota immigrant visa, the kind of evidence required for proof of citizenship of the sponsor depends upon the manner in which his citizenship was acquired:

If born in the United States, the sponsor should submit a certified copy of his birth certificate but, if it is not available, a copy of his baptismal certificate under seal of the church, showing the place of birth will be accepted, provided the baptism did not take place later than two months after the date of birth. If neither document is available, affidavits of two U.S. citizens, preferably older relatives, having personal knoweldge of the birth, may be presented.

If born outside the United States and citizenship was acquired through the naturalization or citizenship of a parent, unless the petitioner possesses a certificate of citizenship in his own name issued by the Immigration and Naturalization Service, he must furnish (1) a certified copy of his birth or baptismal record; (2) a certified copy of his parent's birth record if he was born in the United States; (3) a certificate of marriage of his parents; and (4) documentary evidence of the termination of any prior marriages of his parent(s), usually death certificate or divorce decree.

If citizenship of a female sponsor was acquired through marriage before September 22, 1922, evidence of citizenship is (1) the marriage certificate to the citizen husband through whom she derived; (2) his birth or baptismal certificate, if he was born in this country; and (3) documentary

evidence of the termination of any marriages entered into before this marriage was contracted, usually by death certificate or divorce decree. *If citizenship was acquired by the sponsor's own naturalization or through the naturalization of a parent or husband,* the naturalization certificate need not be submitted with the petition because the immigration authorities can verify the sponor's citizenship through its own records UNLESS the naturalization proceeding took place less than 90 days before the petition for the immigrant visa is filed or before September 27, 1906. In that case, the naturalization certificate—not a copy—must accompany the petition for the visa.

Criminal penalties are provided by law against one who makes or causes to be made a copy of any naturalization certificate, whether his own or another's. If a naturalization certificate is called for in connection with any application or petition, only the original is to be submitted.

NOTE 4. When primary documents—birth, marriage, and other certificates or civil records—are not available, the immigration bureau has accepted secondary evidence, in the form of church, school, legal records, etc.

Fees—a remittance of ten dollars, preferably in the form of a postal, express or bank money order payable to the Treasurer of the United States, must accompany each petition. Cash, coins, or postage stamps are not acceptable. One fee will cover a family group included in one petition.

Filing the petition—the completed form, with supporting documents and the fee, should be mailed or delivered in person at the office of the Immigration and Naturalization Service

—having supervision over the place where he is to be employed in the case of a *First Preference Immigrant*

—having supervision over the sponsor's place of residence in the case of any other prospective immigrant, unless the petitioner is outside the United States. The petition then should be mailed to the Commissioner of Immigration and Naturalization, Washington 25, D.C., United States of America.

If the beneficiary is an unmarried child approaching the age of twenty-one years, the petition must be submitted in sufficient time for action to be completed on the petition and for the child to obtain an immigrant visa and reach the United States before he or she becomes twenty-one years old.

It is important that the completed petition be submitted to the proper office of the Immigration and Naturalization Service as soon as possible, for nonquota visas requiring petitions and preference quota visas are issued to eligible

immigrants in the order in which the petitions are filed on behalf of immigrants in these classes. Such visas are issued in the first calendar month following receipt of notice of approval of the petitions when quota numbers become available to those requiring them.

A list of local offices of the Immigration and Naturalization Services where petitions for the issuance of immigrant visas to the nonquota and preference quota immigrants, described just above, may be filed is contained in Appendix D.

Investigation of the petition—inquiry will be made upon receipt of the petition form as to whether the beneficiary is entitled to nonquota status or a preference in the issuance of an immigrant visa, as requested, and if he is found to be so entitled, the petition will be approved. However, if the investigation discloses that the prospective immigrant will not be admitted into the United States upon arrival at a port of entry, even if the petition is approved, the sponsor will be so advised and have the opportunity to withdraw the petition. Whether he does or not, the fee will not be returned.

If the petition is disapproved, the applicant will be notified and given the right to appeal within ten days from receipt of the notice of disapproval. If an appeal is taken, for which there is a fee of ten dollars, the decision of the immigration authorities at Washington, D.C. is final.

Revocation of the petition—approval of a petition made on behalf of a spouse, parent, or child will be revoked as of the date such petition was approved if

—the beneficiary of a petition filed by a relative fails to obtain an immigrant visa or does not arrange with a consular officer to have his name placed on a registration or waiting list within one year after the date of the approval of the petition;

—the petitioner loses his U.S. citizenship or status as an alien lawfully admitted for permanent residence or dies (or, if not an individual, ceases to exist) before the beneficiary arrives in the United States at a port of entry to apply for admission;

—*as to a husband or wife,* the marriage of the sponsor and the beneficiary ends by death, divorce, or annulment before the beneficiary arrives at a port of entry;

—*as to a child beneficiary,* the child marries or reaches the age of 21 years before arriving at a port of entry to apply for admission;

—*as to a first-preference immigrant,* the beneficiary is not issued a first

preference visa within one year of the date of approval of the petition, or the sponsor dies, goes out of business, or files a written withdrawal of the petition before the beneficiary arrives to apply for admission to the United States.

If any of these occurrences comes to the attention of the immigration authorities, notice of revocation will be sent to the petitioner's last-known address and to the Visa Office of the Bureau of Security and Consular Affairs, Department of State, Washington, D.C.

In addition, any petition filed on behalf of a prospective immigrant or nonimmigrant which is discovered by a consular or immigration officer to have been improperly approved or to have been obtained by fraud, misrepresentation, or other unlawful means, may be revoked after action is suspended and the petitioner is given an opportunity to offer evidence in opposition to the grounds alleged for revocation. If, after reconsideration, the petition is revoked, the sponsor will be informed and will be allowed ten days to appeal the decision to immigration authorities at Washington, D.C. If, after appeal, the order of revocation is upheld, the Visa Office of the Bureau of Security and Consular Affairs of the Department of State at Washington, D.C. will be notified so that the appropriate consular officer will withhold the visa.

CHAPTER IV

EXCLUDABLE ALIENS: WHO MAY NOT BE ADMITTED TO THE UNITED STATES

No alien may receive a visa, immigrant or nonimmigrant, if a consular officer knows or has good reason to believe that he is ineligible for one. Moreover, whether or not he procures a visa, no person may enter the United States if he is found to be excludable upon arrival at a port of entry by the immigration authorities. The immigration laws clearly set out the grounds for refusing a visa or admission to prospective immigrants or nonimmigrants.

Any alien may reasonably assume, however, that he will not be denied admission to this country if he can establish that he does not come within any of the excludable classes described here and provided further that he

—applies in person at a place designated as a port of entry for aliens;
—applies for admission at a time when the immigration office at the port is open for the inspection of applicants for admission;
—makes his application in person to an immigration officer; and
—presents whatever documents are required.

One who obtains entry without complying with these terms of admission may be deported at any time that he is found in the United States.

In addition, whenever the President of the United States finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of this country, he may by proclamation and for as long a period as he believes is necessary, suspend the entry of all aliens or of any class of aliens as immigrants or nonimmigrants or impose any restrictions he considers to be suitable.

The reader should keep in mind that the grounds for *exclusion* and *deportation* must be distinguished, for, although they overlap in some respects, they apply to different situations. Deportation refers to the expulsion of aliens who are found to have violated one or more immigration laws or regulations punishable by deportation AFTER being

admitted to the United States. Exclusion refers to the refusal of admission to aliens who are found to be inadmissible UPON SEEKING ENTRY into the United States.

It will be noted that some grounds for exclusion, as specified hereafter, are mandatory; others are discretionary; and some apply to all aliens coming for temporary or permanent stay, while others refer to immigrants only. Excludable aliens are classified in this chapter according to certain general categories to which the grounds for exclusion are applied.

A. Persons having physical or mental defects—this covers anyone who is found upon medical examination to be

—feeble-minded, insane, epileptic, or to have had one or more attacks of insanity.

—a narcotic drug addict or chronic alcoholic.

—afflicted with a psychopathic personality or a mental defect, including a sex pervert.

—afflicted with tuberculosis in any form, leprosy, or any dangerous contagious disease.

It is for this reason, among others, that a health examination is required for applicants for visas.

The physical and mental examination of all arriving aliens is conducted by one or more medical officers of the United States Public Health Service or other qualified physicians employed on an emergency basis. Aliens who are certified to be within the excludable class, other than those afflicted with tuberculosis, leprosy, or any other dangerous contagious disease, may appeal to a board of medical officers of the U.S. Public Health Service and introduce before such board one expert medical witness at their own cost and expense.

As mentioned previously, provision is made by law to parole an excludable alien who might require immediate medical attention before there has been an opportunity for an immigration officer to inspect him or where refusal of treatment would be inhumane or cause unusual hardship or suffering.

B. Persons likely to become a public charge—this refers to any alien who is

—certified by a medical officer as having a physical defect, disease or disability which is determined by either a consular or immigration officer to be of such a nature as to affect his ability to earn a living,

unless the alien proves that he will not have to earn a living.
—a pauper, professional beggar, or vagrant.
—likely at any time to become a public charge in the opinion of the consular or immigration authorities.

These provisions are aimed at preventing the entry of persons into the United States who are likely to become supported at public expense and includes not only the impoverished but also those who may be institutionalized for mental or moral deficiencies, persons likely to be confined in asylums or jails.

There is no hard and fast rule as to the amount of money an alien should have. Generally, though, he should have enough to provide for his reasonable wants and those of accompanying persons dependent upon him until such time as he is likely to find employment and to purchase transportation to the point of destination. Offers of financial assistance, however, would not in themselves raise an objection to the alien's admission.

Any person excludable on this ground may be admitted to the United States, in the discretion of the immigration authorities, upon providing a bond or cash deposit that he will not become a public charge.

C. *Companions of excludable aliens*—any alien accompanying another certified by a medical officer as helpless from sickness or mental or physical disability or infancy and ordered to be excluded and deported must also be excluded if his or her protection or guardianship is required by the helpless person.

D. *Persons who have committed crimes*—this includes any alien who

—has been convicted of a crime involving moral turpitude, other than a purely political offense.
—admits having committed a crime involving moral turpitude or admits committing acts constituting the essential elements of such a crime.
Exception: one who commits only one such crime while under the age of 18 years may be granted a visa and admitted if the crime was committed more than 5 years before he applies for an entry permit or for admission to the United States. However, if the crime resulted in confinement for any term, he must have been released therefrom more than 5 years before he applies for the visa or for admission to the United States.
—has been convicted of two or more offenses, other than purely political,

for which the aggregate sentences to confinement actually imposed were 5 years or more, regardless of whether (a) the conviction was in a single trial, (b) the offenses arose from a single scheme of misconduct, or whether (c) the offenses involved moral turpitude.

—a narcotic law violator or an illicit trafficker in narcotic drugs. This refers to a person who has been convicted of a violation of any law or regulation relating to traffic in narcotic drugs. It includes also anyone who the consular or immigration officer knows or has good reason to believe is or has been an illicit trafficker in narcotic drugs. The term "narcotic drugs" covers a number of synthetic or chemically compounded opiates as well as the natural herbs and plants defined as addiction-forming or addiction-sustaining opiates.

Crimes involving "moral turpitude" are those violations of law which are inherently wicked or depraved and are offensive to the moral conscience of the community, whether or not the law classifies them as felonies or misdemeanors or punishes them severely or lightly. They may include robbery or petty larceny, conspiracy or deadly assault.

A "purely political offense" is one which is clearly established to have been involved in a conviction obviously based on trumped-up charges or upon repressive measures against racial, religious, or political minorities. However, the mere fact that an alien is or was a member of such minority is not in itself enough to warrant the conclusion that the crime of which he was convicted was a purely political offense.

E. Immoral persons—this applies to any alien found to be

—a polygamist or one who practices or advocates the practice of polygamy. However, one who is a member of a religious organization which tolerates polygamy is not excludable for that reason alone. *Exception*: This ground of inadmissibility does not apply to a nonimmigrant.

—a prostitute or one who has engaged in prostitution at any time or who is coming to the United States solely, principally, or incidentally to engage in prostitution. Thus this includes one who has ceased to engage in prostitution. It also includes one who intends to perform an illicit sexual act, regardless of other reasons motivating his or her entry.

—a procurer or one who directly or indirectly has procured or attempted to procure or to import prostitutes or persons for the purpose of prostitution or for any other immoral purpose. The objection applies whether or not the person being imported herself is an alien.

—one who has received, directly or indirectly, wholly or partially, the proceeds of prostitution.

—one coming to the United States to engage in any other unlawful, commercialized vice, whether or not related to prostitution.
—one coming to the United States to engage in any immoral sex act.

F. Surplus workers—this ground of exclusion applies to an alien who seeks to enter the United States to perform skilled or unskilled labor in any occupation, whether or not by contract or other pre-arrangement, if

—sufficient qualified workers in the United States are then available to perform the same work where the alien is destined, or
—employment of aliens in such occupation will adversely affect the wages and working conditions of Americans similarly employed,

as determined and certified by the Secretary of Labor of the United States.

Exceptions: This restriction does not apply to the following classes of immigrants:

Parents, spouses, or sons and daughters (regardless of age or marital status) of United States citizens.
Parents, spouses, or children of aliens lawfully admitted to the United States for permanent residence.
Brothers or sisters of United States citizens.
Nonquota immigrants other than immigrants born in certain countries in the Western Hemisphere, their families, and former American citizens expatriated through marriage, military service or the naturalization of their parents, as explained in Chapter III.
Immigrants whose services are determined by the immigration authorities to be needed urgently in the United States because of their high education, technical training, specialized experience, or exceptional ability, and to be substantially beneficial prospectively to the national economy, cultural interests, or welfare of the United States.

Where an immigrant would be inadmissible but for this last exception, application must be made to the Immigration and Naturalization Service for waiver or exemption from denial of admission on Form I-129C either by the immigrant himself or by a person, institution, firm, organization, or governmental agency for whom or which the labor is to be performed. It should be submitted in duplicate by the prospective employer to the local immigration office supervising the district where the employer's place of business is located or by the immigrant directly to the Central Office of the Immigration and Naturalization Service at Washington, D.C. with a fee of $10 and the supporting documents described on page 65, except the clearance order.

G. Persons offending the immigration laws—this relates to any person who

—has been previously involved in immigration proceedings, including one who has been (a) excluded from admission and deported and seeks admission within one year after exclusion; (b) arrested and deported; (c) removed from the United States at his own request because of financial distress; (d) removed as an alien enemy; or (e) permitted to depart at government expense in lieu of deportation. UNLESS consent has first been obtained from the Immigration and Naturalization Service to apply or reapply for admission. Permission is requested on Form I-212 to be mailed with a fee of $5 and submitted to the immigration office where the deportation or removal proceedings were held. Approval of the request should be obtained before application for a visa is made to the consul. The application must show whether the immigrant's absence is causing unusual hardship to persons lawfully in the United States, his services are required, he is a bona fide crewman with no other means of earning a livelihood, or it is necessary to cross the border to purchase necessities in connection with his business or for some other urgent reason.

—seeks admission from foreign contiguous territory (Mexico or Canada) or adjacent islands and cannot establish that he was brought to such territory, and has since resided there at least two years before, by a transportation company which has submitted to and complied with requirements placed upon it by the immigration laws.

Exception: This does not apply to nonquota immigrant aliens born in certain countries in the Western Hemisphere; to returning resident aliens (see Chapter III); or to nonimmigrants.

—has practiced fraud or wilful misrepresentatiton of a material fact in obtaining his entry permit or in seeking to enter the United States.

Exception: Objection on this ground will not be raised against a bona fide refugee who wilfully misrepresented his place of birth in fear of being repatriated to his homeland if he admitted the truth, provided his deceit was not committed in order to evade the quota restrictions or investigation of his record by consular or immigration authorities. However, the fact that the alien is a refugee is not of itself sufficient to bring him within this exception.

—is not in possession of a proper entry permit and valid unexpired passport, if required, at the time application is made for admission to the United States. For further explanation, see Chapter II as to nonimmigrants; Chapter III as to immigrants.

In certain emergent circumstances, the documentary requirements for admission may be excused for immigrants, as explained in Chapter III. A waiver of documents for nonimmigrants requires the joint consent of the consular and immigration authorities (a) on the basis of unforeseen emergency in individual cases, (b) for nationals of foreign contiguous territory or of adjacent islands, if Americans are accorded similar treatment there, and (c) for aliens proceeding in transit through the United States on transportation lines complying with

the immigration laws. Application for a waiver of the documentary requirements may be made on Form I-193 or any other appropriate form suggested by consular or immigration officials.

—seeks to enter the United States as an immigrant in possession of a Preference Quota Visa or a Nonquota Visa not properly issued to him. It is for this reason that every applicant for admission must be ready to establish at a port of entry that he is entitled to the special class of visa held by him upon arrival.

—at any time, knowingly and for gain, has induced or helped another alien to enter or try to enter the United States in violation of law.

—is a stowaway.

H. Illiterates—for immigration purposes this refers to an alien over the age of 16 years, physically capable of reading, who cannot read and understand any language or dialect.

Exceptions: This exclusionary ground does not apply to

—a returning resident alien, previously lawfully admitted.

—a nonimmigrant.

—the parent, grandparent, husband, wife, or child (whether or not married or over 21 years of age) of (a) an admissible alien, (b) an alien previously lawfully admitted for permanent residence, or (c) a U. S. citizen, provided such person is otherwise admissible and coming to join the related alien or citizen.

—any alien who can prove he is seeking admission to the United States to avoid religious persecution in the country of his last permanent residence, as indicated by overt acts of discrimination or oppression or by government regulations and laws.

The literacy test consists of showing the prospective immigrant at the time of his arrival a slip of paper or cardboard on which is printed in plain, legible type thirty to forty words ordinarily used in any of the various languages or dialects of immigrants. The alien may choose the particular language or dialect in which he desires the examination to be made.

I. Persons who are ineligible to United States citizenship—this includes any individual who

—is or was at any time permanently debarred from becoming a citizen of the United States under the Selective Service (draft) laws by reason of having claimed exemptiotn from training or service in the Armed Forces of the United States as an alien.

—has left or remained outside the United States in order to avoid or evade training or service in the Armed Forces of this country in time of war or national emergency.

Exception: Nonimmigrants are not included within this class.

J. Persons designated as security risks—this applies to any alien who the consular or immigration authorities know or have reason to believe

—seeks to enter the United States to engage in activities which would prejudice the public interest or endanger the welfare, safety or security of the United States. This defines anyone who entertains such purpose, plan, intention, or design, whether solely, principally, or incidentally in connection with other activities or motives.

—probably would, after entry, engage in any activity

(a) which would be prohibited by laws relating to espionage, sabotage, public disorder, or in any other activity subversive to the national security.

(b) a purpose of which is opposition to, or the control and overthrow of, the United States Government by force, violence, or other unconstitutional means.

Under present regulations, this would include aliens whose past activities make it reasonable to assume they would engage in such behavior after entry into the United States, regardless of their actual or apparent purposes in coming to the United States. A convicted or fugitive war criminal or an alien who was guilty of or indicated approval of conduct contrary to civilization and human decency on behalf of an enemy country in World War II would be ineligible to receive a visa.

—probably would, after entry, join, affiliate with, or participate in the activities of any communistic organization required to be registered under the laws of the United States with the Attorney General.

Under the Subversive Activities Control Act, effective as law since September 23, 1950, a communistic organization must be registered as a *communist-action* or a *communist-front* group. A "communist-action" group is part of the world-wide communist organization, controlled and directed by and subject to the discipline of a foreign communist dictatorship, seeking to carry out the objectives of the communist conspiracy which includes the overthrow of the United States Government by force and violence and setting up a communist dictatorship. Such a group includes the Communist Party of any State or foreign country and any other organization which promotes the cause of communism. It includes, also, any section, subsidiary, branch, affiliate, or subdivision, as well as its predecessor or successor, such as youth or school societies, women's auxiliaries, and factory or industrial chapters.

In carrying on their activities, these groups are often organized on a secret, conspiratorial basis and operate through other organizations, known as "communist-fronts," created and used in such a manner as to conceal the facts of their true character, purposes, and membership. Such an organization is able to obtain financial and other support from persons who would not extend such support if they knew the true purposes and actual source of the control and influence exerted upon this "communist-front" group.

It should be noted that no immigrant or nonimmigrant within this class is exempt from exclusion with the exception of top level foreign government officials, by reason of Presidential sanction, and certain international organization officials.

K. Subversives—this class covers any alien who at any time has come within one of the following categories:

1. *A person opposed to government or law.* This includes one who teaches or advocates

—opposition to all organized government, such as an anarchist.
—the overthrow of the Government of the United States or of all forms of law by force or violence or other unconstitutional means.
—the duty, necessity, or propriety of unlawfully assaulting or killing any officer(s) of this or any other organized government because of his or their official character.
—unlawful damage, injury, or destruction of property.
—sabotage.

It refers also to one who

—writes or publishes (or causes to be written or published) any matter advocating or encouraging the ideas or conduct mentioned above.
—knowingly takes part in circulating, distributing, printing, or displaying such matter, or possesses it for any of these purposes.

2. *A person who advocates a totalitarian form of government.* This applies to one who

—supports the establishment of a totalitarian dictatorship in the United States. This is defined as a system of government not representative of the people in fact, in which the policies of a single political party and the government are so alike that they cannot be distinguished, and any opposition to such party is forcibly suppressed.
—favors any of the economic, international, or governmental doctrines of world communism or supports the establishment of a totalitarian or communistic dictatorship in the United States.
—writes, publishes, or knowingly circulates, distributes, prints, or displays any written or printed matter advocating the doctrines of world communism or the establishment in the United States of a totalitarian dictatorship (or causes any of these things to be done or knowingly has such writing in his possession for any of these purposes).

3. *A person who at any time has been a voluntary members of an organization or party advocating the ideas or purposes described in paragraphs* (1) *and* (2) *above.* This includes one who

—joins or affiliates with any group of persons favoring world communism or the creation of a dictatorship in the United States, as explained above.

—belongs to any communistic organization or party in the United States, in any State, or in any foreign country, regardless of the name by which it has been known, now uses, or which may be adopted in the future.

This refers to the Communist Party of the United States, any other totalitarian party of the United States, the Communist Political Association, the Communist or any other totalitarian party in any country. It includes also any section, subsidiary, branch, affiliate, or subdivision of such organization or party.

—belongs to or is affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays any written or printed matter advocating the ideas or conduct described above in paragraphs (1) and (2). This includes as well any group that causes any of these things to be done or that has in its possession such matter for any of these purposes.

—joins or affiliates with any organization during the period it is registered or is required to be registered under the laws of the United States as a *communist-action* or *communist-front* group, as previously explained.

Exceptions:

1. *Involuntary membership*—the penalty of exclusion attaching to membership or affiliation in any of the organizations described above does not apply to an alien who can establish that his *past* membership or association was involuntary; that is, not of his own free will and choice. This will be presumed in favor of an applicant for a visa or for admission to the United States if his connection with such organization

—ended before he reached his 16th birthday.

—was caused by operation of law; that is, where an alien without his approval automatically became a member or affiliate of a party or organization by official act, proclamation, order, edict, or decree.

—was for the purpose of obtaining employment, food rations, or other essentials of living and was necessary for such purposes.

The term "affiliation" is broader than "membership.' It includes the giving, lending, or promising of money, services, or anything of value in support of the organization or doctrines it advocates. Contributing funds or services includes rendering any personal service or making any gift, subscription, loan, advance, or deposit of money or anything of value, as well as making any agreement or promise to

contribute funds or services. In addition, one who advises, recommends, admits belief in, or helps by an overt act the subversive purposes, policies, practices, aims, or procedures of an organization described as subversive is considered an affiliate of that organization and an advocate of its purposes. And to help print or distribute any matter advocating subversive ideas or behavior brings an alien within this definition, whether the publication be in the form of a circular, newspaper, periodical, pamphlet, book, letter, postcard, or leaflet.

Voluntary service in the armed forces of any country does not in and by itself constitute affiliation with any proscribed party or organization unless such service was in a political capacity, such as a political commisar with the armed forces.

Voluntary membership in a noncommunist party or organization (including any section, subsidiary, or affiliate), although totalitarian in character, does not render a prospective immigrant ineligible for a visa if such party or organization does or did not advocate a totalitarian dictatorship for the United States. Existing regulations have removed members of Nazi and Fascist parties and organizations from the excluding provisions under this interpretation. However, if consular inquiry develops that such members personally advocate or have advocated a totalitarian dictatorship for the United States, they may be barred.

2. *Voluntary membership and redemption*—the penalty of exclusion will not attach to a voluntary member of a totalitarian or communistic organization if he proves to the satisfaction of both consular and immigration officers that

—he has terminated his membership or affiliation with any subversive party or organization,

—for at least five years before applying for a visa or for admission to the United States he has been *actively opposed* to the doctrine, program, principles, and ideology of such party or organization or any of its affiliates or subdivisions, and that

—his admission into the United States would be in the public interest.

Note: Termination of membership may have been caused by the fact that the party or organization has ceased to exist. The five year period runs, therefore, either from the date the alien quits his voluntary association or from the date the organization ceases to exist.

"Active opposition" embraces speeches, writings, and other overt or covert activities opposing the subversive activities or ideology of the party or organization to which the alien had belonged. However,

except in questionable circumstances, he will not be required to show active opposition during the time the organization or party ceased to exist, although he must still satisfy the consular and immigration authorities that he did not personally advocate the ideas or conduct of that organization or party.

3. Nonimmigrant foreign government officials and employees and foreign government representatives to international organizations are not affected by this ground for exclusion. Nor does this class include the attendants, servants, personal employees, and members of their immediate families and the families of the officials of foreign governments, if reciprocal treatment is accorded to Americans of similar status.

General exemptions from the excludable classes

Certain classes of persons are permitted by law to enter the United States under specified conditions notwithstanding the fact that they would otherwise be inadmissible for reasons ordinarily applicable to other incoming aliens:

—a nonimmigrant accredited official of a foreign government and his immediate family, provided they are in possession of the necessary entry documents and are not entering the United States to engage in activities endangering the public safety as defined by regulations of the President.

—an accredited and acceptable foreign government official and his employees (other than those described above) and their immediate families who are inadmissible for other than security reasons as explained above provided they are in possession of the necessary entry permits and are entering the United States as nonimmigrants.

—a foreign government official holding credentials describing his official position, whether or not he is coming to the United States to transact official business, his immediate family, servants, and employees passing in transit through this country, provided they have the necessary entry permits and their entry will not prejudice the safety and security of the United States.

Note: The above exemptions are maintained on a reciprocal basis; that is, are valid only so long as the same privileges are accorded to American nationals.

—a nonimmigrant designated principal resident representative of a foreign government to a recognized international organization, accredited members of his staff, and his or their immediate families, provided they are in possession of the necessary entry documents and are not entering the United States to engage in activities prejudicial to the public interest or endangering the public welfare, safety, or security.

—an accredited foreign government representative to, or an officer or employee of, a recognized international organization (not already described above) and their immediate families, who are inadmissible for other than security reasons, provided they are entering as nonimmigrants in possession of the necessary entry permits.

Note: Exemptions accorded to persons accredited to the United Nations and other international organizations are not restricted to a reciprocal arrangement. In addition, the U.N. has never officially accepted the premise that entry to the U.N. Headquarters can be restricted by the U.S. for security reasons. However, this is U.S. law.

—an alien lawfully admitted for permanent residence returning to a lawful, unrelinquished domicile of seven consecutive years in the United States after a temporary absence abroad, *provided*

(a) departure was voluntary and not under an order of deportation;

(b) the ground(s) for exclusion are other than those based upon public safety, security, or membership in one of the subversive classes described above;

(c) the alien has a proper entry or reentry permit unless waived in advance or at the time of application for admission, usually on Form I-193 showing the reason for the absence of the proper documents, and upon payment of a $10 fee and the costs of communicating with the central immigration office concerning the waiver; and

(d) application for permission to return and be admitted to the United States in spite of his excludability has been approved by the immigration authorities.

Procedure: If application for this relief is made before the alien leaves for the United States, Form I-191 must be submitted with a fee of $25 to the immigration office having jurisdiction over the applicant's home residence. However, should this application not be made until the returning resident arrives at a port of entry, he may request the exercise of this discretion by oral or written request before the special inquiry officer, to whom the alien is referred for hearing upon arrival. Should the application be denied, an appeal may be taken to the Board of Immigration Appeals at Washington, D.C.

If the applicant is mentally incompetent, the application may be made on his behalf by his parent or guardian.

—a prospective nonimmigrant who is inadmissible for other than security reasons provided he has the necessary entry documents, unless waived by special permission, and has obtained the consent of the immigration authorities to enter the United States in spite of his ineligibility. The conditions and procedure for securing such permission is set forth on page 18.

Mention has also been made in this and other chapters of aliens who are permitted to enter the United States, in spite of their excludability, upon giving bond or other guarantee against becoming a public charge, violating the conditions of their stay, etc. Reference also has been made in Chapter

II to certain inadmissible aliens who may be paroled into the United States upon terms prescribed by immigration authorities for reasons of emergency—e.g., medical treatment—or for reasons deemed strictly in the public interest—such as, for use as a witness in a court proceeding. Any person so paroled is not considered to have been admitted to this country and, once the purpose of his parole has been served, he will be returned to the custody from which he was temporarily released.

CHAPTER V

PERSONS WHO CLAIM BUT ARE DENIED RIGHTS AS NATIONALS OF THE UNITED STATES

If any person who is not in the United States claims United States nationality but is denied a right or privilege as such national by any department or independent agency or official of the United States—such as being refused a passport or being denied a petition to grant nonquota status to a spouse or child—on the ground that he is not a national of this country, he may apply to a diplomatic or consular officer of the United States in the country where he is residing for a Certificate of Identity for travel to a port of entry, and there apply for admission to the United States.

A Certificate of Identity is available, however, only to one who at some time before making application has been physically present in the United States or to a person under 16 years of age who was born abroad of an American citizen parent.

Such person may apply for admission at any port of entry for a determination by the immigration authorities as to his citizenship status and, in the event the decision is against him, he may appeal to the Board of Immigration Appeals and to the Attorney General of the United States. A final administrative determination that he is not entitled to be admitted as a citizen may be reviewed by petition to a federal district court in habeas corpus proceedings.

Procedure for obtaining a Certificate of Identity—application is made in quadruplicate on Form FS-343 (revised) to be sworn in person before a diplomatic or consular officer. It must contain statements showing that the applicant claims to be a national of the United States; the basis for his claim and the reason for claiming a right or privilege as a national; the fact that it is made in good faith and upon a substantial basis; that such right or privilege has been denied him by a specified department, agency or official on the ground that he is not a national, indicating the date and place of such

denial; that he desires to proceed to a port of entry in the United States and apply for admission; and that he understands he will be subject to the same treatment applicable to aliens applying for admission to the United States.

In addition he must show that he has exhausted all his administrative remedies before the department, agency, or official denying the right or privilege as an American national. If deemed necessary by the consular or diplomatic official, his application must be supported by the affidavit of a credible witness. Finally, he must submit an accompanying statement setting forth in detail why he considers the final decision of the government agency or official erroneous and establishing that he fully and truthfully disclosed all pertinent facts to the agency or official in claiming the right or privilege of a national and that he had no additional evidence to submit at such time.

A Certificate of Identity, if granted, will be issued only after the applicant has completed his travel plans and will be valid for only two months from the date of issue, unless extended by the Immigration and Naturalization Service. Any person may appeal from a denial of his application for a Certificate of Identity to the Secretary of State by a statement setting forth the grounds of his claim to nationality and the reasons why he feels the decision of the consular or diplomatic officer is not justified. If he prefers, he may have an attorney in the United States direct his appeal to the Secretary of State through the Passport Office of the Department of State.

APPENDIX A

IMMIGRATION QUOTA AREAS AND THE ANNUAL IMMIGRATION QUOTA

(effective January 1, 1953)

Afghanistan*	100
Albania	100
Andorra	100
Arabian Peninsula	100
Asia-Pacific Triangle*	100
Australia	100
Austria	1,405
Belgium	1,297
Sub-quotas	
Belgian Congo	
Bhutan*	100
Bulgaria	100
Burma*	100
Cambodia*	100
Cameroons (British)	100
Cameroons (French)	100
Ceylon*	100
China*	100
Chinese*	105
Czechoslovakia	2,859
Danzig	100
Denmark	1,175
Sub-quotas	
Greenland	
Egypt	100
Estonia	115
Ethiopia	100
Finland	566
France	3,069
Sub-quotas	
Algeria	
Comoro Archipelago	
French Equatorial Africa	
French Guiana	
French West Africa	
Guadeloupe and dependencies	
India, French	
Madagascar and dependencies	
Martinique	
New Caledonia	
New Hebrides (If British subject, British quota)	
Oceania	
Reunion	
St. Pierre and Miquelon	
Somaliland	
Tunisia	
Germany	25,814
Great Britain and Northern Ireland	65,361
Sub-quotas	
Aden	
Bahamas	
Barbados	
Basutoland	
Bechuanaland	
Bermuda	
British Guiana	
British Honduras	
British Solomon	
Brunei	
Cyprus	
Falkland Islands	
Fiji	
Gambia	
Gibraltar	
Gilbert and Ellice Islands	
Gold Coast	
Hong Kong	
Jamaica and dependencies	
Kenya	
Leeward Islands	
Malaya	
Maldive Island	
Malta	
Mauritius	
Nigeria	
North Borneo	
Northern Rhodesia	
Nyasaland	
Pitcairn	
St. Helena	
Sarawak	
Seychelles	
Sierra Leone	
Singapore	
Somaliland Protectorate	
Southern Rhodesia	
Sudan, Anglo-Egyptian	
Swaziland	
Tonga	
Trinidad and Tobago	
Uganda	
Windward Islands	
Zanzibar	
Greece	308

APPENDIX A (continued)

Hungary	865
Iceland	100
India*	100
Sub-quotas	
Andaman Islands	
Nicobar Islands	
Indonesia*	100
Iran	100
Iraq	100
Ireland	17,756
Israel	100
Italy	5,645
Japan*	185
Jordan	100
Korea*	100
Laos*	100
Latvia	235
Lebanon	100
Liberia	100
Libya	100
Liechtenstein	100
Lithuania	384
Luxembourg	100
Monaco	100
Morocco	100
Muscat	100
Nauru*	100
Nepal*	100
Netherlands	3,136
Sub-quotas	
Netherlands New Guinea	
Netherlands West Indies	
Surinam	
New Guinea*	100
New Zealand	100
Norway	2,364
Pacific Islands (Trust. Terr.)*	100
Pakistan*	100
Palestine (Arab Palestine)	100
Philippines*	100
Poland	6,488
Portugal	438
Sub-quotas	
Angola	
Cape Verde Island	
Guinea, Portuguese	
India, Portuguese	
Macau	
Mozambique	
Principe and S. Tome	
Timor	
Ruanda-Urundi	100
Rumania	289
Samoa*	100
San Marino	100
Saudi Arabia	100
Somaliland	100
South-West Africa	100
Spain	250
Sub-quotas	
Ifni	
Rio de Oro	
Rio Muni	
Sweden	3,295
Switzerland	1,698
Syria	100
Tanganyika	100
Thailand*	100
Togoland (French)	100
Togoland (British)	100
Trieste	100
Turkey	225
Union of South Africa	100
Union of Soviet Socialist Republics	2,697
Vietnam*	100
Yemen	100
Yugoslavia	933

NOTE:

Countries and areas marked with an asterisk (*) are situated in the Asia-Pacific Triangle.

Sub-quotas cover colonies and dependencies of a mother country and, as explained in Chapter I, are limited to 100 regardless of the extent of the quota of the mother country, although chargeable to that quota.

APPENDIX B

COUNTRIES WITH WHICH THE UNITED STATES HAS TREATIES OF FRIENDSHIP, COMMERCE AND NAVIGATION

Argentina
Austria
Belgium
Bolivia
Borneo
China
Colombia
Costa Rica
Denmark
El Salvador
Estonia
Ethiopia
Finland
Germany
Great Britain (United Kingdom)
Greece
Honduras
Ireland
Israel
Italy
Japan
Latvia
Liberia
Morocco
Muscat-Zanzibar
Norway
Paraguay
Spain
Switzerland
Thailand
Uruguay
Yugoslavia

Note 1. There are also in force treaties dealing in more limited extent with commerce and general economic relations with France, Iraq, Netherlands, and Turkey.

Note 2. Treaties of friendship, commerce and consular rights have been terminated since 1952 with Poland and Hungary.

APPENDIX C

PUBLIC INTERNATIONAL ORGANIZATIONS RECOGNIZED BY THE UNITED STATES AS ENTITLED TO ENJOY CERTAIN PRIVILEGES, EXEMPTIONS AND IMMUNITIES

The United Nations
The Pan American Union
The International Labor Organization
The Food and Agriculture Organization
Pan American Sanitary Bureau
International Monetary Fund
International Bank for Reconstruction and Development
Inter-American Statistical Institute
Inter-American Institute for Agricultural Sciences
International Wheat Advisory Committee (International Wheat Council)
Preparatory Commission for the International Refugee Organization, and its successor, The International Refugee Organization
International Cotton Advisory Committee
International Joint Commission—United States and Canada
Caribbean Commission
World Health Organization

South Pacific Commission
Organization for European Economic Cooperation
International Telecommunication Union (ITU)
International Civil Aviation Organization (ICAO)
United Nations Educational, Scientific and Cultural Organization (UNESCO)
Inter-American Defense Board
Provisional Intergovernmental Committee for the Movement of Migrants from Europe

APPENDIX D

LOCAL OFFICES OF THE IMMIGRATION SERVICE WHERE APPLICATIONS AND PETITIONS MAY BE OBTAINED AND SUBMITTED

Address your communications to the Immigration and Naturalization Service at:

Fresno, California
Los Angeles, California
Sacramento, California
San Diego, California
San Francisco, California
Denver, Colorado
Hartford, Connecticut
Washington, D.C.
Miami, Florida
Boise, Idaho
Chicago, Illinois
Hammond, Indiana
Portland, Maine
Baltimore, Maryland
Boston, Massachusetts
Springfield, Massachusetts
Detroit, Michigan
Flint, Michigan
Duluth, Minnesota
St. Paul, Minnesota
Kansas City, Missouri
St. Louis, Missouri
Omaha, Nebraska
Reno, Nevada
Newark, New Jersey
Albany, New York
Buffalo, New York
New York, New York
Cincinnati, Ohio
Columbus, Ohio
Toledo, Ohio
Portland, Oregon
Philadelphia, Pennsylvania
Pittsburgh, Pennsylvania
Providence, Rhode Island
El Paso, Texas
San Antonio, Texas
Salt Lake City, Utah
St. Albans, Vermont
Seattle, Washington
Spokane, Washington
Tacoma, Washington
Milwaukee, Wisconsin
Honolulu, Hawaii

APPENDIX E

REFUGEE RELIEF ACT OF 1953 (P.L. 203-83d Congress; enacted and approved August 7, 1953).

214,000 special nonquota immigrant visas have been made available to certain classes of aliens, described below, until December 31, 1956. Generally, these visas will be issued to three separate categories of persons who ordinarily either would have been ineligible to enter the United States or would have had to wait a much longer period of time as quota immigrants.

A. 205,000 nonquota immigrant visas are authorized in specified allotments (shown in parentheses) to the following groups of immigrants, as well as their spouses and unmarried sons or daughters under 21 years of age, including stepsons or stepdaughters and sons or daughters adopted before July 1, 1953, *if accompanying them*:

(1) German expellees residing in the area of the German Federal Republic or in the western sector of Berlin or in Austria (55,000).
Visas so issued will not be issued outside the German Federal Republic or the western sector of Berlin or Austria.

(2) Escapees residing in the area of the German Federal Republic or the western sector of Berlin or in Austria (35,000).
Visas so issued will not be issued outside the German Federal Republic or the western sector of Berlin or Austria.

(3) Escapees residing within the European continental limits of the member nations of the North Atlantic Treaty Organization—presently, Belgium, Canada, Denmark, France, Italy, Luxembourg, the Netherlands, Norway, Portugal, the United Kingdom, (and the United States)—or in Turkey, Sweden, Iran or in the Free Territory of Trieste (10,000).
Provided (a) they are not nationals of the area in which they reside and (b) such visas will be issued only in the areas mentioned.

(4) Refugees who (a) during World War II were members of the armed forces of the Republic of Poland, (b) were honorably discharged from such forces, (c) were residing in the British Isles on August 7, 1953, and (d) have not acquired British citizenship. (2,000)

(5) Refugees of Italian ethnic origin residing in Italy or in the Free Territory of Trieste on August 7, 1953. (45,000)
Such visas will be issued only in the areas mentioned here.

(6) Persons of Italian ethnic origin residing in Italy or the Free Territory of Trieste on August 7, 1953. (15,000)
Provided they can qualify or would be eligible as 2d, 3rd or 4th preference quota immigrants as described on page 6 of this book, and
Provided such visas will be issued only in Italy or in the Free Territory of Trieste.

(7) Refugees of Greek ethnic origin residing in Greece on August 7, 1953. (15,000)
Such visas will be issued only in Greece.

(8) Persons of Greek ethnic origin residing in Greece on August 7, 1953 (2,000)
Provided they can qualify or would be eligible as 2d, 3d, or 4th preference quota immigrants as described on page 6 of this book, and
Provided such visas will be issued only in Greece.

(9) Refugees of Dutch ethnic origin residing in continental Netherlands on August 7, 1953. (15,000)
Such visas will be issued only in continental Netherlands.

(10) Persons of Dutch ethnic origin residing in continental Netherlands on Apgust 7, 1953. (2,000)
Provided they can qualify or would be eligible as 2d, 3d, or 4th preference quota immigrants as described on page 6 of this book, and
Provided such visas will be issued only in continental Netherlands.

(11) Refugees residing within the district of an American consular district in the Far East, (2,000)
Provided such visas will be issued only to refugees not native (indigenous) to this area, and
Provided such visas will be issued only in this consular district.

(12) Refugees residing within the district of an American consular office in the Far East, (3,000)
Provided such visas will be issued only to refugees who are native (indigenous) to this area, and
Provided such visas will be issued only in this consular district.

(13) Refugees of Chinese ethnic origin whose passports for travel to the United States are endorsed by the Chinese National Government or its authorized representatives. (2,000)

(14) Refugees who, on August 7, 1953, were eligible to receive assistance from the United Nations Relief and Works Agency for Palestine Refugees in the Near East. (2,000)
Provided such visas will be issued only in this area.

Definitions:

Refugee means any person in a country or area which is neither Communist nor Communist-dominated, who because of persecution, fear of persecution, natural calamity or military operations is out of his usual place of abode and unable to return there, who has not been firmly resettled, and who is in urgent need of assistance for the essentials of life or for transportation.

Escapee means any refugee who, because of persecution or fear of persecution on account of race, religion, or political opinion, fled from the Union of Soviet Socialist Republics or other Communist, Communist-dominated or Communist-occupied area of Europe including those parts of Germany under military occupation by the Union of Soviet Socialist Republics, and who cannot return there because of fear of persecution on account of race, religion, or political opinion.

German expellee means any refugee of German ethnic origin residing in the area of the German Federal Republic, western sector of Berlin, or

in Austria who was born in and was forcibly removed from or forced to flee from Albania, Bulgaria, Czechoslovakia, Soviet Socialist Republics, Yugoslavia, or areas provisionally under the administration or control or domination of any such countries, except the Soviet zone of military occupation of Germany.

B. Eligible orphans under ten years of age *at the time the visa is issued* are authorized to obtain up to 4,000 special nonquota immigrant visas, *provided* not more than two such visas may be issued to eligible orphans adopted or to be adopted by any one United States citizen and spouse, unless necessary to prevent the separation of brothers or sisters.

Definition:

Eligible orphan means an alien child

(1) who is an orphan because of the death or disappearance of both parents, or because of abandonment or desertion by, or separation or loss from, both parents, or who has only one parent due to the death or disappearance of, abandonment or desertion by, or separation or loss from the other parent and the remaining parent is incapable of providing care for such orphan and has in writing irrevocably released him for emigration and adoption; *and*

(2) (a) who has been lawfully adopted abroad by a U.S. citizen and spouse , or (b) for whom assurances, satisfactory to the consular officer to whom a visa application on behalf of the orphan is made, have been given by a U.S. citizen and spouse that if the orphan is admitted into the United States they will adopt him in the United States and will care for him properly; and

(3) who is ineligible for admission into the United States only because the nonpreference portion of the quota to which he would otherwise be chargeable is oversubscribed by applicants registered on the consular waiting list at the time his visa application is made;

Provided, that no natural parent of any eligible orphan who shall be admitted into the United States under this law shall thereafter, by reason of his parentage, be accorded any right, privilege, or status under the immigration and nationality law.

C. Aliens who lawfully entered the United States as bona fide nonimmigrants before July 1, 1953 may apply to the Attorney General of the United States (through the Immigration and Naturalization Service) for and obtain adjustment of immigration status as aliens lawfully admitted for permanent residence, *provided* any such person

(1) establishes that because of events which have occurred since his entry into the United States, he is unable to return to the country of his birth, or nationality, or last residence, because of persecution or fear of persecution on anncount of race, religion, or political opinion.

(2) has been of good moral character for at least five years preceding his application for adjustment,
(3) was physically present in the United States on August 7, 1953,
(4) is otherwise qualified under all other provisions of the immigration law, as explained in this book, except that the quota to which he is chargeable is oversubscribed,
(5) makes his application for adjustment of status by August 7, 1954, *and*
provided, further, his application is reported to the Congress of the United States and favorably acted upon at the same session it is reported or before the end of the following session. If Congress passes a concurrent resolution approving the application, the status of the applicant as an alien lawfully admitted for permanent residence will be recorded upon payment of the required visa fee. Should the application be disapproved or not acted upon, the applicant may be deported.

Not more than 5,000 aliens are permitted to take advantage of this opportunity, nor are the benefits of this law available to persons admitted under the "exchange-visitor" program—see page 25—or as students on scholarships provided by public funds (U.S.).

Conditions and requirements for obtaining visas and entry.

1. Aliens described above, excepting eligible orphans, will not be given visas unless an *assurance* is first given by a citizen or citizens of the United States that any such alien, if admitted into the United States, will be suitably employed without displacing some other person from employment and that such alien and the members of his family who accompany him and who propose to live with him will not become public charges and will have housing without displacing some other person from such housing.
Blanket assurances or assurances not submitted by a responsible *individual* citizen or citizens will not be accepted. The assurances for employment and housing will be indexed and filed in such manner so as to show the specific address or addresses in the United States in which both the employment and housing are available, the type of employment and housing which are available, and the conditions and terms of the employment. Each assurance will be a personal obligation of the individual citizen(s) giving it.
Assurances submitted to the authorities will be investigated to determine their authenticity and good faith and they will be subject to final acceptance and approval of both the consular and immigration authorities.
Exceptions: This provision does not apply to the spouse, unmarried dependent sons and daughters under 21 years of age, stepsons and stepdaughters, and sons and daughters adopted prior to July 1, 1953 of an immigrant alien eligible under this law.
Nor does this provision apply to aliens described under paragraphs (6),

(8) or (10) of Group A, above, if they furnish satisfactory evidence that they will not become public charges.

2. Any alien admitted under this Act and later determined to have been inadmissible at the time of entry, irrespective of the date he entered, may be taken into custody and deported in the usual manner. However, assistance rendered to an alien in connection with his transportation to and resettlement in the United States will not be regarded as a cause for denying him admission on the ground that he is likely to become a public charge, nor will the fact that such alien has the assurances described above be reason to regard him as a pauper and be cause for his exclusion from the United States—see Chapter IV.

3. *Documentary requirements*: to obtain a visa or admission to the United States, the alien must present to the consular and immigration officials, respectively, (1) *a valid unexpired passport* or other suitable travel document of identity or nationality, or other documentary evidence that he will be assured of readmission to the country of his nationality, foreign residence or in which he obtains a visa under this Act and (2) *a certificate of readmission* guaranteeing his readmission to the country in which he obtains a visa under this Act if it is later found that he obtained a visa by fraud or by misrepresenting a material fact.
The usual visa fees are waived for persons who receive entry permits under this Act.

4. The eligibility of persons receiving visas and admitted into the United States will be determined without discrimination in favor of or against the race, religion, or the national origin of such persons.

5. *Investigation*: every alien applying for a visa and admission under this Act is subject to investigation as to his character, reputation, mental and physical health, history and eligibility.
No person will be eligible unless completeinformation regarding his history for at least 2 years immediately preceding his application for a visa is available *unless* this provision is waived by the government in the national interest.

6. No person may obtain a visa or admission to the United States under this Act if either the consular or immigration officer knows or has reason to believe he is ineligible for a visa or subject to exclusion from the United States for any of the reasons specified in Chapter IV or under this Act. Such person must affirmatively establish his eligibility under this Act and under the immigration laws as explained in this book. Further, such person must be inspected and examined at a port of entry upon arriving in the United States.

7. Any person who makes a material misrepresentation to any government agency enforcing this law for the purpose of gaining admission into the United States may be excluded.

8. *Persons ineligible*: No visa will be issued to
(a) any person who personally advocated or assisted in the persecution of any person or group of persons because of race, religion, or national origin.

(b) any alien 18 years of age or older, otherwise authorized to be admitted under this Act, who will not take an oath or affirmation, before being issued a visa, that he is not and never has been a subversive as described under Paragraph K on page 79.

A wilfully false oath or affirmation will subject any person uttering the same to prosecution for perjury. Furthermore, any person not entitled to a visa or admission under this Act who does gain admission, may be taken into custody at any time after entry and deported.

9. *Penalties*: Any person or persons who knowingly violate, conspire to violate, induce or attempt to induce any person to violate any part of this Act is guilty of a felony and subject to a fine of up to $10,000 or imprisonment up to 10 years, or both, if he is convicted.

Priorities in consideration of visa applications.

Except in the case of applications filed by persons described in paragraphs (6), (8) and (10) of Group A, above, priorities will be given to—

—persons whose services or skills are needed in the United States, if such need has been certified by the U.S. Employment Service, and who are to be employed in a capacity calling for such services or such skills;

—persons who are (a) the parents of citizens of the United States, such citizens being at least 21 years of age, or (b) spouses or unmarried sons or daughters under 21 years of age, including stepsons or stepdaughters and sons or daughters adopted before July 1, 1953, of aliens lawfully admitted for permanent residence, or (c) brothers, sisters, sons or daughters of citizens of the United States.

No priority will be accorded any person simply because he qualifies as a "displaced person" under the Displaced Persons Act of 1948.

With the exception of aliens described in Group C, all persons desiring to file visa applications under this Act will communicate with the appropriate consular officials in their districts, for this Act will be administered chiefly by the Bureau of Security and Consular Affairs in the Department of State.

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